



Agenda Item No: 8.d
Meeting Date: July 6, 2021

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Human Resources

Prepared by: Sylvia Gonzalez-Shelton,
Human Resources Operations Manager

City Manager Approval: 

TOPIC: SUCCESSOR MEMORANDUM OF UNDERSTANDING WITH WESTERN COUNCIL OF ENGINEERS (WCE) & FURLOUGH REIMBURSEMENT SIDE LETTER

SUBJECT: DISCUSSION AND CONSIDERATION OF A MEMORANDUM OF UNDERSTANDING PERTAINING TO COMPENSATION AND WORKING CONDITIONS FOR WESTERN COUNCIL OF ENGINEERS (JULY 1, 2021 THROUGH JUNE 30, 2024)

RECOMMENDATION:

Staff recommends that the City Council take public comment, and direct staff to return at the next meeting with a resolution seeking approval of the successor Memorandum of Understanding between the City of San Rafael and Western Council of Engineers pertaining to compensation and working conditions (July 1, 2021 through June 30, 2024) and a resolution seeking approval of the Furlough Reimbursement Side Letter.

BACKGROUND:

Western Council of Engineers represents 11 full-time equivalent (FTE) positions in the Public Works Department and San Rafael Sanitation District. The most recent Memorandum of Understanding ("MOU") for WCE expired on June 30, 2020 and was extended by side letter through June 30, 2021. Over the past several months, representatives of the City and WCE have met in good faith and worked diligently to negotiate the terms of a successor MOU. The City and WCE reached a tentative agreement on June 21, 2021, for a three-year successor MOU and WCE membership subsequently ratified the tentative agreement.

ANALYSIS:

The following are the highlights that reflect the terms and significant economic items included in the agreement between the City and WCE. In addition to the economic items, some operational items were also addressed in the final agreement, all of which can be found in the attached draft successor MOU.

- 1. Term of the Agreement:** July 1, 2021 through June 30, 2024

FOR CITY CLERK ONLY

File No.: _____

Council Meeting: _____

Disposition: _____

2. **Salary Increase:** Individual classification salary increase percentages may be lower or higher than the percentages listed below, based on the amount of labor market adjustment agreed to for each position in the bargaining unit. The salary schedule included in the attached draft successor MOU authorizes the proposed new salary for each position.
 - a. Year 1: Value of a 3.5% base wage increase for the bargaining group, effective July 1, 2021
 - b. Year 2: Value of a 3.5% base wage increase for the bargaining group, effective July 1, 2022
 - c. Year 3: Value of a 3.5% base wage increase for the bargaining group, effective July 1, 2023
3. **Prior year contract extension – restoration of 3% base wage:** For FY 20-21, all bargaining groups (except WCE, Local 1, Mid-Management and Executive Management) received a 3% base wage increase for the 1-year contract extension, which was implemented for FY 20-21. The timing of the COVID-19 pandemic and the associated financial losses which were projected at that time, resulted in an unintended disparate treatment of the bargaining groups. WCE, Local 1, Mid-Management and Executive Management did not receive this same 3% base wage increase for FY 20-21. However, the City is now in a financial position to “restore” the 3% base wage increase to those groups. The 3% base wage will apply to all WCE positions and is reflected in the attached revised salary schedules, effective on July 1, 2021.
4. **One-Time Payment:** Employees represented by the bargaining group will receive a one-time, non-pensionable payment in the amount of \$2,250 in exchange for the elimination of Revenue Sharing. This payment will not contribute to Classic or PEPRA employees’ pensions and is subject to normal payroll taxation.
5. **Eliminate Revenue Sharing:** The revenue sharing provision to be eliminated provides a formula upon which a percentage of excess general tax revenues must be shared with members where specific criteria are met to increase the salary of WCE job classes.
6. **Non-Economic Items:** In addition to items discussed above, agreement was reached on other proposals, which reflect minor changes to existing provisions with no additional cost. The attached draft redline MOU includes all the changes agreed to by the parties. A brief overview of these negotiated MOU sections includes:
 - Retiree Health Insurance (Section 4.2.2): Incorporate side letter language regarding Retiree Health Savings (RHS). For the annual July 1 conversion of sick leave to fund an employee’s retiree health care trust, the remaining sick leave balance requirement is 125 hours.
 - Sick Leave (Section 5.1.3): Update familial relationships under definition of “immediate family” to be more in line with definition under California Paid Family Leave.

Furlough Repayment Side-Letter

In addition to the attached draft successor MOU, a draft template side letter is attached that outlines the terms mutually agreed upon by the City and WCE regarding the repayment of the furlough which was implemented in fiscal year 20-21. In response to the global COVID-19 pandemic that began in the spring of 2020, the City of San Rafael declared a local state of emergency. In anticipation of dire financial circumstances, the City exercised its management rights under MOU section 7.6 and implemented a Citywide furlough for all non-safety positions. Based on the best financial projections available at the time, it was necessary and prudent to implement the furlough in order to avoid the need to implement reductions in force in the future.

Year-end review of the FY 20/21 budget shows that the City’s projected revenue losses anticipated due to the pandemic fortunately did not materialize as expected and the City is projecting a financial surplus for fiscal year 20-21. As a result, the City is in a financial position at this time to issue repayments to employees who were furloughed over the last year. The circumstances that make it possible for the City to reimburse employees for the furlough are extremely unique in nature and this one-time reimbursement for FY 20-21 is non-precedential. The City will issue a one-time re-payment equal to the actual furlough reduction amount taken by each employee in the bargaining group for FY 20/21. The City already made MCERA pension contributions on each employee’s regular (non-furloughed) payroll amount each pay period during FY 20-21, therefore the City will not make any additional contributions to Classic or PEPRA employees’ pensions and the repayment amount is subject to normal payroll taxation. The individual furlough repayment amounts range from approximately \$700 - \$4,000, depending upon the individual position.

At the July 19, 2021 City Council meeting when staff presents the successor MOU for approval to the City Council, staff will also present a resolution and a final side letter with WCE seeking City Council authority to approve the total amount of the furlough reimbursement.

FISCAL IMPACT:

The current total annual salary and benefit cost to the City for the 11 employees of WCE is \$1,956,376. The additional ongoing incremental cost of the successor MOU beyond the FY 21/22 budget is:

	<u>Incremental FY 2021-22</u>	<u>Incremental FY 2022-23</u>	<u>Incremental FY 2023-24</u>
Wages:			
Base Salary	\$63,261	\$47,129	\$39,228
Other costs:			
Pension**	\$29,984	\$22,336	\$18,590
Taxes, etc. (Medicare, W/C)	<u>\$ 2,252</u>	<u>\$ 1,678</u>	<u>\$ 1,397</u>
Total Incremental Cost:	\$95,497	\$71,143	\$59,215

***This incremental pension cost results only from the negotiated wage increase and does not include the cost of associated MCERA rate changes. The terms and conditions of the pension benefit plan remain unchanged.*

While the incremental cost is \$95,497 for fiscal year 2021-2022, \$71,143 for fiscal year 2022-2023, and \$59,214 for fiscal year 2023-24, the increases are compounding and therefore the projected wages and other costs total \$487,992 plus \$24,750 in one-time payment, totaling \$512,742 for the three-year term. The incremental cost for fiscal year 21-22 includes the prior year (fiscal year 20-21) contract extension restoration of a 3% base wage increase. The one-time changes will not contribute to employee pension costs. The increase in compensation included in this resolution is in line with the City’s current budget projections and is within the current salary growth assumptions used by MCERA in the most recent actuarial valuation which is used to establish pension contribution rates and measure pension liabilities. Funding for these positions is provided for in the City’s General Fund.

OPTIONS:

The City Council has the following options to consider in this matter:

- Direct staff to return at the next meeting with a resolution seeking approval of the successor MOU between the City of San Rafael and Western Council of Engineers.
- Direct staff to return with more information.

RECOMMENDED ACTION:

Staff recommends that the City Council take public comment, and direct staff to return at the next meeting with a resolution seeking approval of the successor Memorandum of Understanding between the City of San Rafael and Western Council of Engineers pertaining to compensation and working conditions (July 1, 2021 through June 30, 2024) and a resolution seeking approval of the Furlough Reimbursement Side Letter.

ATTACHMENTS:

1. Draft MOU (with track changes) between City of San Rafael and Western Council of Engineers for July 1, 2021 to June 30, 2024 (and all attachments).
2. Draft Template Furlough Reimbursement Side Letter

MEMORANDUM OF UNDERSTANDING

between

CITY OF SAN RAFAEL

and

WESTERN COUNCIL OF ENGINEERS

JULY 1, 202118 - JUNE 30, 20240

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TABLE OF CONTENTS

1	General Provisions	1
1.1	Introduction	1
1.1.1	Scope of Agreement	1
1.1.2	Term of MOU	1
1.2	Recognition	1
1.2.1	Bargaining Unit	1
1.2.2	Notice to Employees	1
1.3	Non-Discrimination	1
1.3.1	In General	1
1.3.2	Union Discrimination	2
1.4	Inspection of Memorandum of Understanding	2
1.5	Existing Laws, Regulations & Policies	2
1.6	Strikes & Lockouts	2
1.7	Severability	2
1.8	Prevailing Rights	2
1.9	Full Understanding, Modification, Waiver	2
1.9.1	Understanding	2
1.9.2	Waiver & Modification	2
2	MMBA	3
2.1	Union Rights	3
2.1.1	Union Stewards Designation	3
2.1.2	Bulletin Boards	3
2.1.3	Association Orientation of New Employees	3
2.1.4	Employee Information	3
2.2	Dues Deduction	3
2.2.1	Collection of Dues	3
2.2.2	Dues Collection during Separation from Employment	4
2.2.3	Agency Shop	4
2.2.4	Indemnification	4
2.3	Management Rights	4
2.4	Commencement of Negotiations	5
3	Compensation	5
3.1	General Wages and Compensation	5
3.1.1	Pay Dates	5
3.1.2	General Wage Increase	6
3.1.3	One-Time Payments	6
3.1.4	Compensation Goal & Definitions	7
3.1.5	Compensation Surveys	7
3.1.6	Compensation Plan	7
3.1.7	Fair Labor Standards Act	8
3.2	Step Increases	8
3.2.1	Entry Level Step	8
3.2.2	Consideration for Step Increases	8
3.2.3	Merit Increases	8
3.2.4	Anniversary Date	8
3.2.5	Promotions	8
3.2.6	Performance Evaluations	98
3.3	Salary Change on Reclassification	9
3.3.1	To a Lower Classification	9
3.3.2	To a Different Classification with the Same Salary Range	9
3.3.3	To a Higher Classification	9
3.4	Specified Wage Adjustments / Differentials	9

3.4.1	Out of Class Compensation.....	9
3.4.2	Shift Differential Pay	9
3.5	Additional Pay.....	10
3.5.1	Required Professional Licenses and Registration.....	10
3.5.2	Professional Development.....	10
3.5.3	Allowable Expenses.....	10
3.5.4	Procedures for Reimbursement.....	11
3.5.5	Bilingual Pay	11
3.5.6	Uniform Allowance.....	12
3.6	Revenue Sharing	12
3.6.1	Conditions for Revenue Sharing.....	12
3.6.2	Revenue Definitions & Revenue Sharing Calculations	12
3.6.3	Schedule.....	1342
4	Benefits	13
4.1	Employee Benefits Committee	13
4.2	Health & Welfare.....	13
4.2.1	Full Flex Cafeteria Plan	13
4.2.2	Retirees Health Insurance	14
4.2.3	Pro Rata Benefit Rules	15
4.2.4	Health and Dependent Care Spending Accounts.....	15
4.2.5	Health Insurance Providers	15
4.3	Dental Plan	1645
4.3.1	Dental Plan	16
4.4	Vision Plan.....	16
4.5	Retirement Contribution.....	16
4.5.1	Member Contribution	16
4.5.2	Retirement Plans	16
4.5.3	Member Cost of Living Rates	1746
4.5.4	Service Credit for Sick Leave	17
4.5.5	Pension Committee	17
4.6	State Disability Insurance (SDI).....	17
4.7	Deferred Compensation.....	18
5	Leaves	18
5.1	Sick Leave	18
5.1.1	Eligibility.....	18
5.1.2	Sick Leave Accrual	18
5.1.3	Use of Sick Leave.....	18
5.1.4	Advance of Sick Leave	1948
5.1.5	Compensation for Unused Sick Leave	19
5.2	Vacation Leave	19
5.2.1	Eligibility.....	19
5.2.2	Rate of Accrual	19
5.2.3	Administration of Vacation Leave	2049
5.2.4	Vacation Cash-In	20
5.3	Holidays	20
5.3.1	Paid Holidays.....	20
5.4	Other Leaves	21
5.4.1	Bereavement Leave.....	21
5.4.2	Jury Duty.....	21
5.4.3	Military Leave.....	21
5.4.4	Leave of Absence Without Pay	21
5.4.5	Industrial Injury Leave.....	21
5.4.6	Family Medical Leave	22
5.4.7	Catastrophic Leave.....	22

6	Terms & Conditions of Employment	22
6.1	Hours of Work.....	22
6.2	Overtime	2322
6.3	Compensatory Time Policy.....	23
6.3.1	Accrual Limit	23
6.3.2	Overtime Rate.....	23
6.4	Stand By or Call Back Duty	23
6.4.1	Compensation When Not Assigned to Call Back Duty.....	23
6.5	Probationary Period	23
6.5.1	Purpose of Probation	23
6.5.2	Probationary Period	23
6.5.3	Rejection During Probation.....	2423
6.5.4	Notification of Rejection	2423
6.5.5	Extension of Probationary Period	2423
6.5.6	Regular Status	24
6.5.7	Promotion of Probationary Employee	24
6.5.8	Unsuccessful Passage of Promotional Probation.....	24
6.5.9	Lateral Transfer Probation	24
6.6	Transfers / Reassignments.....	24
6.6.1	Minimum Qualifications & Probation.....	2524
6.6.2	Transfer Procedures	25
6.7	Personnel Rules & Regulations	25
6.7.1	Drug & Alcohol Policy	25
6.7.2	Confidential Nature of Personnel Records	25
6.7.3	Confidential Nature of Medical Records	25
6.7.4	Outside Employment Policy.....	2625
6.7.5	Use of City Vehicle	2625
6.7.6	Safety Policy	2625
6.8	Miscellaneous	26
6.8.1	Gratuities/Solicitation of Contributions.....	26
6.8.2	Return of City Equipment.....	26
6.8.3	Political Activity	26
6.8.4	Employment of Relatives	26
6.8.5	Labor / Management Meetings	26
6.8.6	Contract Orientation Work Sessions	26
6.8.7	Gym Reimbursement.....	2726
7	Procedures.....	2726
7.1	Demotion & Suspension	2726
7.1.1	Demotion.....	2726
7.1.2	Suspension	27
7.2	Termination of Employment.....	27
7.2.1	Resignation	27
7.2.2	Termination - Layoff (Lack of work or funds)	27
7.2.3	Termination - Disciplinary Action	27
7.2.4	Retirement	27
7.2.5	Rejection During Probation.....	2827
7.3	Disciplinary Action	2827
7.3.1	Right to Discipline & Discharge	2827
7.3.2	Preliminary Notice.....	28
7.3.3	Disciplinary Action and Appeal	2928
7.3.4	Harassment Policy.....	29
7.4	Grievance Procedure	29
7.4.1	Definition	29
7.4.2	Procedure	29
7.4.3	Arbitration.....	30
7.4.4	General Provisions	3130

7.5	Position Reclassification	31
7.6	Furlough Program	31
7.6.1	Voluntary Time Off (VTO).....	31
7.6.2	Mandatory Time Off (MTO).....	32
7.7	Reduction in Force.....	32
7.7.1	Authority.....	32
7.7.2	Notice	33 32
7.7.3	Order of Layoff	33
7.7.4	Seniority	33
7.7.5	Bumping Rights	33
7.7.6	Transfer Rights	33
7.8	Re-Employment	33
7.8.1	General Guidelines	33
7.8.2	Right to Re-Employment.....	34 33
7.8.3	Time Limits.....	34
7.8.4	Availability	34
7.8.5	Probationary Status	34
7.8.6	Restoration of Benefits	34
7.8.7	Layoff Procedure Notification.....	34

LIST OF EXHIBITS

Exhibit A	Salary Schedules for July 1, 202 18 ¹⁸ – June 30, 202 40 ⁴⁰
Exhibit B	Classification/Compensation Summary: Benchmark Linkages

MEMORANDUM OF UNDERSTANDING

between

CITY OF SAN RAFAEL

and

WESTERN COUNCIL OF ENGINEERS

This Memorandum of Understanding is entered into pursuant to the provisions of Section 3500, et seq. of the Government Code of the State of California.

The parties have met and conferred in good faith regarding wages, hours and other terms and conditions of employment for the employees in said representation unit, and have freely exchanged information, opinions and proposals and have reached agreement on all matters relating to the employment conditions and employer-employee relations of such employees.

This Memorandum of Understanding shall be presented to the City Council of the City of San Rafael as the joint recommendation of the undersigned parties for salary and employee benefit adjustments for the period commencing July 1, 2021~~18~~ and ending June 30, 2024~~0~~.

1 GENERAL PROVISIONS

1.1 INTRODUCTION

1.1.1 Scope of Agreement

The salaries, hours, fringe benefits and working conditions set forth have been mutually agreed upon by the designated bargaining representatives of the City of San Rafael (herein-after called "CITY") and the Engineering Unit employees as represented by the Western Council of Engineers (herein-after called "WCE") and shall apply to all employees of the City working in the classifications and bargaining unit set forth herein.

1.1.2 Term of MOU

This agreement shall be in effect from July 1, 2021~~18~~ through June 30, 2024~~0~~.

1.2 RECOGNITION

1.2.1 Bargaining Unit

The City hereby recognizes the Western Council of Engineers as the bargaining representative for purpose of establishing salaries, hours, fringe benefits and working conditions for all employees within the WCE. (As referenced in Exhibit "A" and "B" attached).

1.2.2 Notice to Employees

Whenever a person is hired in any of the job classifications set forth herein, the City shall notify such person that the Western Council of Engineers is the recognized bargaining representative for employees in that classification.

1.3 NON-DISCRIMINATION

1.3.1 In General

The parties to this contract agree that they shall not, in any manner, discriminate against any person whatsoever because of race, color, age, religion, ancestry, national origin, sex, sexual orientation, marital status, medical condition or disability. Any employee alleging such discrimination should use the internal administrative process explained in the City Policy against

Harassment, Discrimination and Retaliation which is available on the City's Intranet website to redress the situation. Such employees shall be entitled to WCE representation but are not entitled to seek redress using the grievance procedure of this MOU.

1.3.2 *Union Discrimination*

No member, official, or representative of the WCE shall, in any way, suffer any type of discrimination in connection with continued employment, promotion, or otherwise by virtue of membership in or representation of WCE.

1.4 INSPECTION OF MEMORANDUM OF UNDERSTANDING

Both the City and the WCE agree to keep duplicate originals of this Memorandum on file in a readily accessible location available for inspection by any employee or member of the public upon request.

1.5 EXISTING LAWS, REGULATIONS & POLICIES

This agreement is subject to all applicable laws of the State of California, and ordinances, regulations, and policies of the City of San Rafael.

1.6 STRIKES & LOCKOUTS

During the term of this Memorandum, the City agrees that it will not lock out employees, and the WCE agrees that it will not agree to, encourage or approve any strike or slowdown growing out of any dispute relating to the terms of this Agreement. The WCE will take whatever lawful steps are necessary to prevent any interruption of work in violation of this Agreement, recognizing with the City that all matters of controversy within the scope of this Agreement shall be settled by established procedures set forth in the City's charter, ordinances, and regulations, as may be amended from time to time.

1.7 SEVERABILITY

If any article, paragraph or section of this Memorandum shall be held to be invalid by operation of law, or by any tribunal of competent jurisdiction, or if compliance with or any enforcement of any provision hereof be restrained by such tribunal, the remainder of this Memorandum shall not be affected thereby, and the parties shall, if possible, enter into meet-and-confer sessions for the sole purpose of arriving at a mutually satisfactory replacement for such article, paragraph or section.

1.8 PREVAILING RIGHTS

All matters within the scope of meeting and conferring which have previously been adopted through rules, regulation, ordinance or resolution, which are not specifically superseded by this Memorandum of Understanding shall remain in full force and effect throughout the term of this Agreement.

1.9 FULL UNDERSTANDING, MODIFICATION, WAIVER

1.9.1 *Understanding*

The parties jointly represent to the City Council that this Memorandum of Understanding set forth the full and entire understanding of the parties regarding the matters set forth herein.

1.9.2 *Waiver & Modification*

Except as specifically otherwise provided herein, it is agreed and understood that each party hereto voluntarily and unqualifiedly waives its right, and agrees that the other shall not be

required to meet and confer with respect to any subject or matter covered herein, nor as to wages or fringe benefits during the period of the term of this Memorandum.

The foregoing shall not preclude the parties hereto from meeting and conferring at any time during the term of this Agreement with respect to any subject matter within the scope of meeting and conferring by mutual agreement.

2 MMBA

2.1 UNION RIGHTS

2.1.1 Union Stewards Designation

The WCE shall, by written notice to the City Manager, designate certain of its members as WCE Officers. WCE Officers shall be permitted reasonable time for WCE activities including grievance representation. In all cases, the Officers shall secure permission from the Officer's supervisor before leaving a work assignment. Such permission shall not be unreasonably withheld.

WCE Officers for salary discussions shall be in accordance with the Meyers-Milias-Brown (MMB) Act.

2.1.2 Bulletin Boards

Authorized representatives of the WCE shall be allowed to post WCE notices on specified bulletin boards maintained on City premises.

2.1.3 Association Orientation of New Employees

Whenever the City hires an employee within any classification covered by this Memorandum of Understanding and represented by the Association, the City will inform the employee, as soon as possible, of the terms and provisions of this Memorandum of Understanding and will provide said employee with a copy of the current Memorandum of Understanding. The City shall make available up to two hours, at a mutually agreeable time, during the initial thirty (30) days of employment for new employee orientation by the Association. In addition, the City will also provide reasonable advance notice to the Association of all employee orientations conducted by the City for its members.

2.1.4 Employee Information

The City shall provide the Association with the name, job title, department, work location, work, home and personal cell phone numbers, home address and personal email address on file with the City for all employees within the Association every 120 days. In addition, a report with similar information of each Association new hire will be provided to the Association within 30 days of the hire date.

2.2 DUES DEDUCTION

2.2.1 Collection of Dues

The City agrees to deduct dues and voluntary WCE deductions selected by members as established by the WCE, from the salaries of its members. The sums so withheld shall be remitted by the City, without delay, along with a list of employees and their respective dues and voluntary deductions. The WCE bears responsibility for allocating dues and voluntary deductions pursuant to employees' requests.

2.2.2 *Dues Collection during Separation from Employment*

The provisions specified above (Section 2.2.1.) shall not apply during periods of separation from the WCE by any such employee, but shall reapply to such employee commencing with the next full pay period following the return of the employee to the WCE. The term separation includes transfer out of the WCE, layoff, and leave without pay absences with a duration of more than five (5) working days.

2.2.3 *Agency Shop*

The parties hereto recognize that, within the Agency shop provisions of this agreement, WCE employees may opt to join the WCE or register as a fee payer during the first thirty (30) days of their employment. Neither the City nor the WCE will discriminate against any employee because of the exercise of their statutory rights. The WCE agrees to its obligation to represent all of the employees in the unit fairly and equally, without regard to their membership in the WCE.

All employees, as a condition of employment, either be required to belong to the WCE or to pay to the WCE an amount equal to a fair share percentage of that which would be paid by an employee who decides to become a member of the WCE at the time of employment. Note: The WCE is obligated to annually inform the City of the fair share amount.

The employee's earnings must be regularly sufficient after other legal and required deductions are made to cover the amount of the dues or service fees check off authorized. When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover the pay period from future earnings. In the case of an employee who is in a non-pay status during only part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions have priority over WCE dues.

The WCE shall notify the City in writing as to the amount of such dues uniformly required of all members of the WCE.

2.2.4 *Indemnification*

Moneys withheld by the City shall be transmitted to the Treasurer of the WCE at the address specified. The WCE shall indemnify, defend, and hold the City harmless against any claims made, and against any suit instituted against the City on account of check off of employee organization dues or service fees. In addition, the WCE shall refund to the City any amount paid to it in error upon presentation of supporting evidence.

2.3 MANAGEMENT RIGHTS

The City reserves, retains, and is vested with, solely and exclusively, all rights of management which have not been expressly abridged by specific provision of this Memorandum of Understanding or by law to manage the City, as such rights existed prior to the execution of this Memorandum of Understanding. The sole and exclusive rights of management, as they are not abridged by this Agreement or by law, shall include, but not be limited to, the following rights:

1. To manage the City generally and to determine the issues of policy;
2. To determine the existence of facts which are the basis of the management decision;
3. To determine the necessity of any organization or any service or activity conducted by the City and expand or diminish services;
4. To determine the nature, manner, means, technology and extent of services to be provided to the public;

5. Methods of financing;
6. Types of equipment or technology to be used;
7. To determine and/or change the facilities, methods, technology, means and size of the work force by which the City operations are to be conducted;
8. To determine and change the number of locations, re-locations and types of operations, processes and materials to be used in carrying out all City functions including, but not limited to, the right (after effects bargaining) to contract for or subcontract any work or operation of the City;
9. To assign work to and schedule employees in accordance with requirements as determined by the City, and to establish and change work schedules and assignments;
10. To relieve employees from duties for lack of work or other legitimate reasons;
11. To discharge, suspend, demote or otherwise discipline employees for proper cause in accordance with the provisions and procedures set forth in City Personnel Rules and Regulations and this MOU;
12. To determine job classifications and to reclassify employees;
13. To hire, transfer, promote and demote employees in accordance with this Memorandum of Understanding and the City's Rules and Regulations;
14. To determine policies, procedures and standards for selection, training and promotion of employees;
15. To establish and modify employee and organizational performance and productivity standards and programs including but not limited to, quality and quantity standards; and to require compliance therewith;
16. To maintain order and efficiency in its facilities and operations;
17. To establish and promulgate and/or modify rules and regulations to maintain order and safety in the City which are not in contravention with this Agreement;
18. To take any and all necessary action to carry out the mission of the City in emergencies.

The City and the Union agree and understand that if, in the exercise of any of the rights set forth above, the effect of said exercise of rights by the City impacts an area within the scope of representation as set forth in the Meyers/Milias/Brown Act, case law interpreting said acts, and/or Federal law, the City shall have the duty to meet and confer with the Union regarding the impact of its decision/exercise of rights.

2.4 COMMENCEMENT OF NEGOTIATIONS

It is mutually agreed to begin the Meet and Confer process no later than three (3) months before the expiration date of this MOU, regarding the terms and conditions applicable to successor MOUs. The process will be initiated by the Union through the submittal of potential meeting dates.

3 COMPENSATION

3.1 GENERAL WAGES AND COMPENSATION

3.1.1 Pay Dates

City employees are paid twice per month on the 15th and the last working day of the month. When a holiday falls on a payday, the payday will be transferred to the following day of regular

business unless Finance is able to complete the payroll by the previous workday. The method of the distributing payroll shall be established by the Director of Finance. The City will modify its pay schedule to 26 pay periods effective when administratively feasible subject to addressing of technical issues and reaching of agreement with all bargaining groups.

3.1.2 General Wage Increase

Prior year contract extension – restoration of 3% base wage: For FY 20-21, all bargaining groups (except WCE, Local 1, Mid-Management and Executive Management) received a 3% base wage increase for the 1-year contract extension, which was implemented for FY 20/21. The timing of the COVID-19 pandemic and the associated financial losses which were projected at that time, resulted in an unintended disparate treatment of the bargaining groups. WCE, Local 1, Mid-Management and Executive Management did not receive this same 3% base wage increase for FY 20-21. However, the City is now in a financial position to “restore” the 3% base wage increase to those groups. The 3% base wage increase will apply to all WCE positions and is reflected in the attached revised salary schedules, effective on July 1, 2021.

The City shall provide the following salary increases for the listed positions in each year of the MOU, with Year 1 salary increases to become effective July 1, 2021; or, on the first pay period after Council’s approval – whichever occurs later in time.

Junior Engineer:

- 1.6% general salary increase plus 0.9% equity adjustment in Year 1 (2.50% total)
- 1.6% general salary increase plus 2.40% equity adjustment in Year 2 (4.00% total)
- 1.6% general salary increase plus 1.65% equity adjustment in Year 3 (3.25% total)

Assistant Engineer, Associate Civil Engineer, Engineering Technician I/II, Senior Civil Engineer (PW), Traffic Engineer and Traffic Engineering Technician I/II:

- 1.6% general salary increase plus 0.65% equity adjustment in Year 1 (2.25% total)
- 1.6% general salary increase plus 2.15% equity adjustment in Year 2 (3.75% total)
- 1.6% general salary increase plus 1.40% equity adjustment in Year 3 (3.00% total)

~~Effective the first full pay period in July 2018 or upon approval by the City Council, whichever is latest, salary ranges for classifications in this unit shall be increased by 2.0%.~~

~~Effective the first full pay period in July 2019, salary ranges for classifications in this unit shall be increased by 2.0%.~~

Salary rates for all bargaining unit positions are shown in the salary table attached as Exhibit A.

3.1.3 One-Time Payments

Effective the pay period including July 1, 2021 or the first full pay period following Council ratification of a new MOU, whichever occurs later, each employee in the bargaining unit will receive a one-time payment of \$2,250 in exchange for the elimination of the Revenue Sharing provision from the MOU. This payment will not contribute to Classic or PEPRA employees’ pensions and is subject to normal payroll taxation.

~~The following one-time payment is limited to the two years cited in this agreement and is not scheduled to recur in the future:~~

~~Employees represented by the bargaining group will receive a one-time, non-pensionable payment of \$4,000 to revise section 4.2.1 to tie the 3% health inflator to the Kaiser Bay Area~~

~~Premium rate increase up to a maximum of 3% and freeze the “employee only” and “employee and one dependent” Flex Dollar Allowance.~~

~~The \$4,000 payment will be split as follows: \$2,000 will be paid with the first pay period in July 2018 or upon approval by the City Council, whichever is latest, and \$2,000 will be paid with the first pay period in July 2019. This payment will not contribute to Classic or PEPPRA employees’ pensions and is subject to normal payroll taxation.~~

~~NOTE: The one-time payments for part-time employees will be prorated based on the full-time equivalent (FTE) of the position. For example, an employee filling a half-time or 0.5 FTE position will receive a receive a \$1,000 payment minus applicable taxes on the same schedule as described above for full-time employees. This payment will not contribute to employees’ pensions.~~

3.1.4 *Compensation Goal & Definitions*

It is the goal of the City Council to try to achieve a total compensation package for all employees represented by the WCE in an amount equal to the following:

1. The average plus one dollar to the total compensation paid to the same or similar classifications in the following nine (9) cities: Fairfield, Vallejo, Hayward, San Leandro, Alameda, Napa, Novato, Santa Rosa and,
2. The highest total compensation paid to the same or similar classifications in the following agencies in Marin County: Marin County, Novato and the Jr. Engineering class for the Marin Municipal Water District.

Total Compensation for survey purposes shall be defined as: Top step salary (excluding longevity pay steps), educational incentive pay, holiday pay, uniform allowance, employer paid deferred compensation (except for such portion that may be part of employee cafeteria plan), employer’s contribution towards employees’ share of retirement, employer’s retirement contribution, employer paid contributions toward insurance premiums for health, life, long term disability, dental and vision plans, and employer paid cafeteria/flexible spending accounts.

The CPI shall be the percentage change in the San Francisco-Oakland-San Jose Area All Urban Consumer index as published by the Bureau of Labor Statistics for the one-year period ending each October during the term of the contract.

3.1.5 *Compensation Surveys*

To measure progress towards the above-stated goal, the City and WCE will jointly survey the identified benchmark position, Junior Engineer, in February of the final year of the contract.

Identified benchmark positions from other agencies include positions that are filled as well as those that may be unfilled, so long as the benchmark position is identified by the survey agency as being on the salary schedule and having a job class description. Other city/agency positions are established as benchmark positions in San Rafael's compensation survey based upon similar work and similar job requirements.

Survey data will include all salary and benefit increases, as defined in 'total compensation'. The City and the WCE shall review the benchmark and related survey data for accuracy and completeness.

3.1.6 *Compensation Plan*

The Compensation Plan adopted by the City Council shall provide for salary schedules, rates, ranges, steps and any other special circumstances or items related to the total compensation paid employees.

Each position within the classified services shall be allocated to its appropriate class in the classification plan on the basis of duties and responsibilities. Each class shall be assigned a salary range or a rate established in the salary plan. All persons entering the classified service shall be compensated in accordance with the salary plan then in effect.

All initial employments shall be at the first step of the salary range. The City Manager or his/her designee may authorize, upon the recommendation of the Appointing Authority, a position at an appropriate higher salary when, in his/her opinion, it is necessary to obtain qualified personnel or when it appears that the education or experience of a proposed employee is substantially superior to the minimum requirements of the class and justifies a beginning salary in excess of the first step

3.1.7 *Fair Labor Standards Act*

The City may reopen negotiations during the term of this Agreement to address changes in the law governing the regular rate of pay under the FLSA.

3.2 STEP INCREASES

3.2.1 *Entry Level Step*

All initial employment shall be at the first step of the salary range, provided that the Department Director may make an appointment to a position at an appropriate higher salary when, in his/her opinion, it is necessary to obtain qualified personnel, or when it appears that the education or experience of a proposed employee is substantially superior to the minimum requirements of the class and justifies a beginning salary in excess of the first step. City Manager approval is required for entry level appointment above Step C for any position.

3.2.2 *Consideration for Step Increases*

An employee may be considered for a salary step increase in accordance with the time interval established in the salary plan, as referenced in Exhibit "A". Unless otherwise noted, salary step increases within established salary ranges are scheduled at yearly intervals. Advancement to a higher salary step within an established salary range is granted for continued improvements and efficient and effective work by the employee in the performance of his/her duties.

3.2.3 *Merit Increases*

Accelerated merit performance step increases of five percent (5%) may be granted an employee based upon the recommendation of the Department Director and approved by the City Manager. Employees at the maximum step of their salary range may be granted a merit performance step increase of five percent (5%) above and beyond their salary range. A merit step increase may be effective for up to one (1) year. A merit step increase may be withdrawn and is not a disciplinary action and is not appealable.

3.2.4 *Anniversary Date*

Based upon job performance as measured by a Performance Evaluation, employees may receive consideration for a step increase within their salary range on their anniversary date. When an employee is promoted or reclassified to a new position, the first pay date at the new position shall constitute the employee's new anniversary date for purposes of the annual Performance Evaluation.

3.2.5 *Promotions*

Employees promoted to higher-level positions shall be placed at the step in the new salary range that will provide, at a minimum, a five (5%) increase (unless that would exceed the top step in the salary range).

3.2.6 *Performance Evaluations*

Prior to the completion of the probationary period, a minimum of one performance evaluation report shall be reviewed with the employee, but such report and review shall not be required prior to separating an employee during the probationary period.

Upon completion of the probationary period, a performance report shall be prepared and reviewed yearly thereafter for each employee in the Classified Service, as a means of determining whether in-grade salary increases are merited, and/or as a means of improving employee performance and communication between supervisors and subordinates.

3.3 SALARY CHANGE ON RECLASSIFICATION

If an occupied position is reclassified, the incumbent shall be affected as outlined below:

3.3.1 *To a Lower Classification*

When a position is re-allocated to a lower classification the incumbent is either:

1. Transferred to a vacant position in the former classification; or
2. If the incumbent's current salary is greater than the top step of the lower classification, Y-rated at the current salary until the salary of the lower classification is at or above the Y-rate.

3.3.2 *To a Different Classification with the Same Salary Range*

When a position is reallocated to a different classification with the same salary range, the incumbent shall be granted the same status in the new classification, in which he/she shall be paid at the same step of the range and shall maintain the same salary rights.

3.3.3 *To a Higher Classification*

When a position is reclassified to a classification with a higher salary range, the incumbent is moved into the higher classification with the position, except in the circumstances prescribed below. Placement in the salary range shall be in accordance with the appropriate salary pay plan.

If the duties upon which the reclassification are based could have been assigned to any of a number of employees in that classification within the division or department, then a promotional exam is held for the reclassified position. Such an exam is a departmental only recruitment limited to employees within that classification. If the incumbent is not successful in this competitive process, she/he is assigned to the position vacated by the promotion.

3.4 SPECIFIED WAGE ADJUSTMENTS / DIFFERENTIALS

3.4.1 *Out of Class Compensation*

Employees assigned in writing by their supervisor to perform work in a higher paid classification, shall be compensated at a rate 5% greater than the employee's current base salary. Eligibility for Out-of-Class compensation requires a minimum assignment of five (5) consecutive workdays. The out-of-class increase shall be retroactive to the first day of the assignment. If the assignment extends beyond four consecutive weeks, then the employee shall be compensated at the lower step of the classification within which the duties fall if that is greater. The Department Director is required to complete a Personnel Action Report (PAR), located on the Human Resources page of the Intranet, to initiate Out-of-Class Compensation.

3.4.2 *Shift Differential Pay*

- A three percent (3%) shift differential shall be paid for all employees in these represented bargaining groups who are regularly scheduled to work fifty percent (50%) or more of their shift between the hours of 5:00 p.m. and 11:00 p.m.
- A five percent (5%) shift differential shall be paid for all employees in these represented bargaining groups who are regularly scheduled to work fifty percent (50%) or more of their shift between the hours of 11:00 p.m. and 7:00 a.m.
- Employees in job classes not identified in this section who are assigned to work the swing or graveyard shift time periods on a temporary basis and/or on an overtime basis are excluded from shift differential pay for those time periods.
- Shift differential shall not be considered an additional percentage on salary for personnel involved but shall apply only to hours actually worked; e.g., differential does not apply to sick leave, vacation or compensatory time, but does include overtime for employees regularly assigned to the swing or graveyard shifts.

3.5 ADDITIONAL PAY

3.5.1 Required Professional Licenses and Registration

The City shall continue to reimburse employees for the fee charged by the State of California for any renewal fees for their professional registration(s) as a Civil or Traffic Engineer, or for any other engineering registrations which employees may hereafter receive, which are required by the employee's position. Verification of the renewal of the professional registration is required in order to receive the reimbursement.

3.5.2 Professional Development

For each year of this MOU, each employee shall receive reimbursement up to a maximum of five hundred dollars (\$500.00) for professional development. The monies allocated under this section shall be job-related and/or related to an employee's potential career advancement in his/her field. It is agreed that the Professional Development Expenditure is not a substitute for the Public Works' Department's training budget.

Bargaining Unit Members are eligible for up to two (2) working days per fiscal year to further their professional development that is directly relevant to their employment with the City. Employees must submit requests for the time out of the office at least three (3) weeks in advance and obtain supervisor and/or director approval. Should the request be denied, the employee may submit the request in advance to Human Resources for appeal, whose decision will be final. These two (2) days are intended to be used when an employee wants to pay for their own professional development opportunity. Professional development opportunities that the department agrees to sponsor will be considered separate from these two (2) days out of the office and will be designated as working time and will not be counted against the two additional working days described above in this section.

3.5.3 Allowable Expenses

Reimbursement under this Section is intended to include items which relate to an employee's job classification and/or which promote and enhance an employee's development of skills, expertise and education in her/his profession. The items may include, but are not limited to the following:

- Technical and educational books, including electronic books, publications and coursework;
- Subscriptions to professional journals or magazines, including on-line subscriptions;

- Membership dues to professional organizations which are related to current employment, including but not limited to the American Society of Civil Engineers, traffic engineering associations and water engineering issues-related associations;
- Registration, application, or examination fees for registration or certification within his/her profession, as well as for preparatory courses or materials for such a registration exam;
- Tuition, fees and books for successful completion of courses related to an employee's job or professional development including webinars and on-line courses. If the course is graded, reimbursement will be dependent upon at least a passing grade (C or better, Pass or Complete) in the course;

Registration fees, materials and expenses, including travel expenses, related to attendance at seminars and conferences to be job related and/or will assist the employee to prepare for career advancement, prior supervisor approval is necessary for this expense.

3.5.4 *Procedures for Reimbursement*

All receipts for reimbursement, whatever the aggregate value, must be submitted as soon as possible after the expense is incurred, but must, in any event, be submitted before the end of the fiscal year.

The decision as to whether expenditures under this section are eligible for reimbursement under this section will be made by the Department Director or designee, in consultation with the Human Resources Director. Requests for reimbursements will not be unreasonably denied. If the request for reimbursement is denied, the Department Director or designee must state, in writing, the reasons for the denial. The employee and a representative of WCE, if requested by the employee, shall meet with the Department Director or designee and Human Resources Director to discuss the reasons for the denial, and the employee will have an opportunity to state why such reimbursement is appropriate.

3.5.5 *Bilingual Pay*

Within the job classifications represented by the WCE, provisions are hereby established whereby an employee may receive bilingual pay for full fluency in a foreign language.

Full fluency is defined as a skill level that will allow the employee to fully assist someone else who does not speak English in coping with situations or problems by translating for, conversing with and/or reading or writing written material.

An employee can petition to his/her Department Director for this bilingual pay incentive. With the Department Director's recommendation and on review by the Human Resources Director and approval of the City Manager the employee may begin to receive this bilingual pay incentive.

Criteria for approval of the bilingual pay incentive by the City Manager includes:

- a. Certification by a recognized school of the appropriate skill level; and/or
- b. Demonstrated ability of the proficiency level on the job; and
- c. Department Director's recommendation and statement that the bilingual skill of the employee can be of value to the department and the employee in the completion of their regular work assignments.

An employee approved for the bilingual pay incentive shall receive an additional \$150.00 per month above their base salary. Part-time employees will be pro-rated for this incentive based on their FTE.

This bilingual pay incentive shall be reviewed annually and shall continue as long as the employee demonstrates (by work experience or re-testing, as determined by the City of San Rafael) the full fluency skill level; and as long as the Department Director indicates the value of this skill to the department and the employee in the completion of their regular work assignments.

Removal of the bilingual pay incentive would be considered a non-disciplinary action and as such would not be subject to any appeal/grievance procedure.

3.5.6 *Uniform Allowance*

The safety shoe allowance of \$170.00/year will be discontinued and the \$170.00/year will be added to base pay effective July 2014.

~~3.6 REVENUE SHARING~~

~~3.6.1 Conditions for Revenue Sharing~~

~~Employees in the bargaining unit positions defined in this MOU shall receive Revenue Sharing Increases, effective January 1 of each year of the contract, in addition to the Contract Compensation Increase (if any), if the following conditions are met:~~

- ~~a. If the CPI increase, as outlined in Section 3.1.3, is greater than the Contract Compensation Increase, **and**,~~
- ~~b. If General Tax Revenues have resulted in revenues being available for distribution, based upon the formulas defined in Section 3.6.2, **and**,~~
- ~~c. The “net change in General Fund Balance” as defined in Section 3.6.2, as presented in the previous fiscal year’s audited financial statements, is positive, **and**~~

~~The City’s General Fund Emergency and Cash Flow reserve at the end of the previous fiscal year contains at least 10% of the General Fund budgeted expenditures for that same year. If the above four conditions are met, then a Revenue Sharing salary increase shall be paid prospectively, in accordance with the schedule below, to bring the combination of the Contract Compensation Increase and the Revenue Sharing Increase up to the level of the CPI. However, in no event shall the Combined Contract Compensation Increase and Revenue Sharing Increase result in a total compensation increase that exceeds 5% for the fiscal year under review.~~

~~3.6.2 Revenue Definitions & Revenue Sharing Calculations~~

~~**Net Change in General Fund Balance** is determined in the course of the City’s annual financial audit, and presented as “net change in fund balance” in the City’s published financial statements.~~

~~**General Tax Revenues** shall be defined to include the following taxes: Sales Tax, Property Tax (Secured, Unsecured and Unitary), Motor Vehicle License Fees, Property Transfer Tax, Hotel Occupancy Tax, Business License Tax and Franchise Fees. No other revenue sources of the City will be included in this definition.~~

~~If General Tax Revenues of the City for the fiscal year previous to this contract year (i.e. FY 2013-2014) exceed General Tax Revenues of the City for the prior fiscal year (i.e., 2012-2013), then the members of the bargaining unit shall be entitled to apply three percent (3%) of one-half (1/2) of the excess of fiscal year General Tax Revenues over prior fiscal year General Tax Revenues adjusted for 75% of the total compensation increases provided to members for the contract year, in accordance with the schedule below, for a Revenue Sharing Total Compensation adjustment.~~

3.6.3 ~~Schedule~~

- a. ~~September 7th – General Tax Revenues.~~ The City shall make known to WCE if General Tax Revenues of the most recently ended fiscal year have grown from the prior fiscal year on September 7th of each year of this contract. If no growth in General Tax Revenues has taken place, there shall be no Revenue Sharing for that fiscal year of the contract.
- b. ~~November 15th – Net Change in General Fund Balance and the Funding Level of the City’s General Fund Emergency and Cash Flow Reserve.~~ By November 15th of each year, the City shall make known to the WCE whether there is a positive change in the General Fund Balance when the most recently ended fiscal year is compared to the previous one. At the same time, the City shall make known to the WCE whether the funding level of the City’s General Fund Emergency and Cash Flow reserve is at or above 10% of budgeted expenditures. If these two conditions are not met, then no Revenue Sharing shall take place for that contract year.
- c. ~~November 30th – CPI.~~ If the conditions for revenue sharing have been met for the contract year, the City shall identify the CPI for the fiscal year in October of each year and make the figure known to the Union by November 30th.
- d.a. ~~January 1st – Base Monthly Pay Increases are calculated.~~ January 1st is the effective start date (for paycheck date of January 31st) for Revenue Sharing Salary increases.

4 BENEFITS

4.1 EMPLOYEE BENEFITS COMMITTEE

Both parties agree to continue to utilize the Employee Benefits Committee for ongoing review of benefit programs, cost containment and cost savings options. The Committee shall be made up of representatives of the SEIU, SEIU-Childcare, Western Council of Engineers, Local 1 - Confidential, Police, Police Mid-Management, Fire, Fire Mid-Management, Mid-Management and Management employees.

4.2 HEALTH & WELFARE

4.2.1 Full Flex Cafeteria Plan

Effective January 1, 2010, the City implemented a Full Flex Cafeteria plan for active employees, in accordance with IRS Code Section 125. Active employees participating in the City’s full flex cafeteria plan shall receive a monthly flex dollar allowance to purchase benefits under the plan.

The monthly flex dollar allowance effective the paycheck of December 15, 20~~2017~~ shall be:

For employee only:	\$ 835.94
For employee and one dependent:	\$1,671.91 <u>\$1,623.22</u>
For employee and two or more dependents:	\$1,814.57 <u>\$1,761.19</u>

The “employee only” and “~~employee and one dependent~~” allowance will be frozen at \$835.94 and ~~\$1,623.22, respectively~~. ~~Th~~These amounts ~~are~~is ineligible for the following flex dollar increases until ~~th~~these amounts ~~are~~is less than 100% of the Kaiser premium. Flex dollar allowances shall increase on the December 15th paycheck of each subsequent year up to a maximum of three percent (3%) on an annual basis, based on but not to exceed the Kaiser Bay Area premium rate increase for the upcoming calendar year.

The City shall contribute to the cost of medical coverage for each eligible employee and his/her dependents, an amount not to exceed the California Public Employees' Medical and Hospital Care Act (PEMHCA) contribution, as determined by CalPERS on an annual basis. This portion of the monthly flex dollar allowance is identified as the City's contribution towards PEMHCA. The balance of the monthly flex dollar allowance (after the PEMHCA minimum contribution) may be used in accordance with the terms of the cafeteria plan to purchase health benefits, or may be converted to taxable income.

Conditional Opt-Out Arrangement: An employee may elect to waive the City's health insurance coverage and receive a \$300 monthly Opt-Out payment in accordance with the terms of the cafeteria plan, and the Affordable Care Act, if the employee complies with the following conditions:

- 1) The employee certifies that the employee and all individuals in the employee's tax family for whom coverage is waived have alternative Minimum Essential Coverage as defined by the Patient Protection and Affordable Care Act through a provider other than a federal marketplace, a state exchange, or an individual policy.
- 2) During the City's annual open enrollment period, the employee must complete an annual written attestation confirming that the employee and the other members of the employee's tax family are enrolled in alternative Minimum Essential Coverage. The employee agrees to notify the City no later than 30 days if the employee or other member(s) of the employee's tax family lose coverage under the alternative Minimum Coverage Plan.
- 3) The employee understands that the City is legally required to immediately stop conditional opt-out payments if City learns that the employee and/or members of the employee's family do not have the alternative Minimal Essential Coverage.

The City reserves the right to modify at any time, the amount an employee is eligible to receive under this paragraph, if required by IRS Cafeteria Plan regulations, other legislation or Federal and/or California agency guidance.

The City shall be responsible for paying premiums for a life insurance and Accidental Death and Dismemberment (AD&D) policy for each employee. The life and AD&D policy shall provide a \$5,000 life insurance and a \$5,000 AD&D benefit.

The City shall be responsible for paying premiums for a Long-Term Disability Policy for each employee that satisfies the eligibility provisions of the long-term disability policy. The Long-Term Disability policy shall provide for salary replacement of 66.67% of an individual's salary up to a maximum disability benefit of \$1,000 per month.

4.2.2 *Retirees Health Insurance*

Employees represented by WCE who retire from the Marin County Employees' Retirement Association (MCERA) within 120 days of leaving their City of San Rafael position (and who comply with the appropriate retirement provisions under the MCERA laws and regulations) are eligible to continue in the City's retiree group health insurance program offered through PEMHCA. The City's contribution towards retiree coverage shall be the PEMHCA minimum contribution as determined by CalPERS on an annual basis.

a. Employees hired on or before January 1, 2010 - The City shall make a retiree health insurance payment on behalf of employees hired before January 1, 2010 and who retire from the City of San Rafael as described in this Section. The City's total payment, which includes the PEMHCA minimum contribution, shall not exceed \$752 per month. The City's retiree health contribution shall continue for the lifetime of the retiree and retiree's spouse, in accordance with PEMHCA eligibility provisions for coverage.

Employees receive the pro-rated amount based on their status at the time of retirement. For example: if an employee works part-time, and retires while working part-time, then the employee receives a pro-rated contribution based on the employee's part-time status at the point of retirement.

b. Employees hired on or after January 1, 2010 and who meet the eligibility requirements for retiree health insurance are eligible to continue in the City's group health insurance program. The City's maximum contribution towards retiree coverage under this subsection, 4.2.3 B, shall be the PEMHCA minimum contribution as determined by CalPERS on an annual basis. The City shall not be responsible for making any contributions towards the cost of coverage of the retiree's spouse, registered domestic partner, or dependents upon the employee's retirement from the City in excess of the PEMHCA minimum contribution as required by CalPERS.

The City shall additionally make available a retiree health care trust to enable these employees (hired after January 1, 2010) to prefund retiree health care premiums while employed by the City. The retiree health care trust shall be funded by annual conversion of 50 hours of sick time in service on July 1 of each year, provided an employee has a remaining balance of ~~75-125~~ hours of sick leave after the conversion.

4.2.3 *Pro Rata Benefit Rules*

Employees covered by this Agreement who work less than full time but more than twenty (20) hours per week on a regular basis shall be eligible to receive: a) pro-rated leave benefits; b) a pro-rated share of the monthly dollar contribution made by the City to be used for enrollment in City offered group health, life, and long term disability insurance plans which the employee may be eligible for based upon the regular hours the employee works, and c) pro-rated share shall be equivalent to the part time employee position's ratio of hours worked to full time equivalency.

4.2.4 *Health and Dependent Care Spending Accounts*

The City will offer as part of its Section 125 Plan, for as long as such a plan is desired by the WCE and available pursuant to the IRS Code, Health and Dependent Care Spending Accounts. The Flexible Spending Accounts offered by the City include:

- a. Healthcare Spending Account: Out-of-pocket medical expenses that qualify under the IRS Code effective January 1, 2003 at IRS Code limit, not to exceed \$2,500. Employees are responsible to pay the monthly administrative fee and any increase established by the third-party administrator.
- b. Dependent Care Spending Account: Dependent care expenses that qualify under the IRS Code at the IRS Code limit (currently \$5,000 per calendar year). Employees are responsible to pay the monthly administrative fee and any increase established by the third-party administrator.
- c. Premium Only Plan: Excess Medical premiums shall be deducted from employee's pay with pre-tax dollars as long as such deduction is allowable under the applicable IRS Code.

The City shall establish an annual enrollment period and each employee must re-enroll annually for either plan noted in a. and/or b. The City shall have the authority to implement changes to the 125 Programs to comply with changes in applicable IRS laws without having to go through the meet and confer process.

4.2.5 *Health Insurance Providers*

The City shall have the option, after meeting and consulting with WCE representatives, of either contracting with the Public Employees Retirement System (PERS) Health Benefits Division for health insurance or contracting directly with some or all of the providers of health insurance under the PERS program; provided, however, contracting directly with the providers shall not cause any material reduction in insurance benefits from those benefits available under the PERS program.

4.3 DENTAL PLAN

4.3.1 Dental Plan

The City will provide a dental insurance program which offers 100% coverage for diagnostic and preventative care; \$25.00 deductible on corrective care (80/20); and an 80% payment of eligible costs associated with crown and cast restoration per patient per calendar year and orthodontic coverage for eligible dependents (50/50). The dental provider will provide payments for covered services at the percentage indicated in the plan booklet up to a maximum of \$1,500 for each enrollee in each calendar year.

Dental insurance enrollment is available to part time, regular, permanent employees working at least 20 hours per week. The City's contribution towards the monthly dental insurance premium will be prorated based on the FTE level of the part time employee.

4.4 VISION PLAN

The City will contract for a vision plan for employee only vision benefits. Employees will be eligible to enroll qualified family members and will pay the premium costs for such enrollment.

4.5 RETIREMENT CONTRIBUTION

4.5.1 Member Contribution

WCE members shall pay the full share of the employee's contribution to the Marin County Retirement System.

Effective when feasible in accordance with MCERA and City administrative requirements, all unit employees will pay an additional contribution of one percent (1%) of pensionable compensation toward the normal cost of pension provided by the Marin County Employees Retirement Association, in addition to the current employee contribution towards pension as determined by MCERA.

The City of San Rafael acknowledges that, under its current practice, the employee's share of their retirement contribution is deducted with pretax dollars. This practice will continue until changed through the Meet and Confer process or until IRS regulations change.

4.5.2 Retirement Plans

On July 1, 2004, the City provided the Marin County Employee Retirement Association 2.7% at 55-retirement program to all miscellaneous members, as defined under the 1937 Act Government Code Section 31676, subject to Marin County Employee Retirement Association procedures and regulations and applicable 1937 Act laws that govern such plans. This is based on an employee's single highest year of compensation.

Employees hired on or after July 1, 2011 will receive an MCERA retirement benefit at the formula 2% at 55, calculated based on the average of their highest three years of compensation, in accordance with MCERA regulations. The annual pension adjustment shall be a maximum of 2% COLA. Minimum retirement age is 55.

Employees hired by the City on or after January 1, 2013 who are defined as “new members” of MCERA in accordance with the Public Employees’ Pension Reform Act (PEPRA) of 2013, shall be enrolled in the MCERA 2% @ 62 plan for Miscellaneous members. The employee is responsible for paying the employee contribution of half of the total normal cost of the plan, as defined by MCERA, through a payroll deduction. Final compensation will be based upon the highest annual average compensation earnable during the thirty-six (36) consecutive months of employment immediately preceding the effective date of his or her retirement or some other period designated by the retiring employee.

4.5.3 *Member Cost of Living Rates*

Association members who are eligible to participate in the Marin County Employee Retirement Association will pay their full share of members’ cost of living rates as allowed under Articles 6 and 6.8 of the 1937 Retirement Act. Miscellaneous and safety member contribution rates include both the basic and COLA portions (50% of COLA is charged to members as defined in the 1937 Act).

4.5.4 *Service Credit for Sick Leave*

Employees who retire from the City of San Rafael within 120 days of leaving City employment (excludes deferred retirements) shall receive employment service credit for retirement purposes only for all hours of accrued, unused sick leave (exclusive of any sick leave hours they are eligible to receive and they elect to receive in compensation at the time of retirement pursuant to Section 5.1.5. Compensation for Unused Sick Leave).

Employees hired on or after July 1, 2009 are not eligible to receive employment service credit of any accrued, unused sick leave for retirement purposes.

4.5.5 *Pension Committee*

A representative of the Union will participate in the City-wide pension committee.

4.6 STATE DISABILITY INSURANCE (SDI)

Employees will have the full premium cost for SDI or PFL coverage automatically deducted from their paycheck and no City contribution will be made toward participation in the plan.

It is incumbent upon the employee to keep the City advised of their medical status, within HIPAA guidelines, and eligibility for SDI or PFL. With this notification, SDI or PFL benefits, as determined by the State, shall be integrated with accrued sick and vacation leave in the following manner:

1. Employee notifies supervisor of disability and need for time off. At the same time, employee files for SDI or PFL through the State Office.
2. Supervisor verifies from leave records the employee's accrual balances and projects whether or not employee would, under normal circumstances, be placed in a leave without pay status during the time off period.
3. Personnel Action Report (PAR) is completed by the supervisor to document request and approval of extended leave.
4. Human Resources Department, on receipt of the PAR, contacts employee and supervisor to discuss availability of coordination of SDI or PFL with leave benefits.
5. Once the employee begins receiving SDI or PFL compensation, the City will begin its integration. The City will do this by reducing the amount of SDI or PFL compensation from the employee’s normal compensation. The balance will be paid

using available sick hours. If an employee exhausts sick leave, the balance will be paid using vacation or other accrued leave.

6. When an employee receives the first SDI or PFL payment (issued via an EDD debit card) and statement, the employee must provide a copy of the statement and a personal check to the City for the amount of the SDI or PFL payment that is received. The City will then restore the sick or other accrued leave hours reflected in the SDI or PFL payment. To determine the leave hours to be restored, the City will divide the SDI or PFL payment by the employee's hourly rate.
7. Once the City has determined the amount of the ongoing SDI or PFL payment, the City will automatically reduce the employee's compensation by the amount of the state payment and apply the necessary amount of sick leave or other accrued leave as appropriate to equal full pay for the duration of the leave. The employee's combined compensation from SDI or PFL and accrued leave may not exceed 100% of regular pay.
8. The Human Resources Department, after notification from Payroll, notifies the employee when they have used all accrued sick and/or vacation time and when leave without pay status (LWOP) begins. Excluding qualifying FMLA/CFRA leave, once the employee is on LWOP they will keep any SDI payments received and would be fully responsible for the monthly health, dental and life insurance premiums if they chose to remain in the group plans. FMLA/CFRA provide an exception and are referenced under Section 5.4.6.

4.7 DEFERRED COMPENSATION

Effective simultaneously with the above-described increase in employee contribution by one percent (1%) to be contributed toward the normal cost of pension benefits provided by MCERA as described in Article 4.4.1, the City will contribute one percent (1%) of pensionable compensation toward a City-provided, deferred compensation plan.

5 LEAVES

5.1 SICK LEAVE

5.1.1 Eligibility

Sick leave with pay shall be granted to each eligible employee. Sick leave may not be used at an employee's discretion, but shall be allowed only in case of necessity and actual sickness or disability. The employee is required to notify employee's immediate supervisor or Department Director according to department Rules and Regulations at the beginning of his/her daily duties. The City has the right to request a medical verification from an employee who is absent from his/her duties for two (2) or more consecutive workdays. The verification shall be either a physician's certificate or the employee's personal affidavit verifying the employee's eligibility for sick leave.

5.1.2 Sick Leave Accrual

All eligible full-time employees shall earn sick leave credits at the rate of one (1) working day per month commencing with the date of employment. Unused sick leave may be accumulated to any amount but a cap exists for payoff purposes (see Section 5.1.5.). The sick leave accrual rate is prorated for eligible part time employees.

5.1.3 Use of Sick Leave

An employee may use accrued sick leave during their probationary period. An employee eligible for sick leave with pay shall be granted such leave for the following reasons:

- 1) Personal illness or physical incapacity of the employee or illness within the immediate family. Family is defined as an employee's spouse, registered domestic partner, parent, parent-in-law, grandparent, grandchild, sibling or unmarried children including adopted children, stepchildren, or recognized natural children who live with the employee in a regular parent-child relationship, ~~and parents (including in-laws);~~
- 2) Enforced quarantine of the employee in accordance with community health regulations;
- 3) Medical appointments that cannot be scheduled during non-working hours.

5.1.4 *Advance of Sick Leave*

Whenever circumstances require, and with the approval of the City Manager, sick leave may be taken in advance of accrual up to a maximum determined by the City Manager, provided that any employee separated from the service who has been granted sick leave that is un-accrued at the time of such separation shall reimburse the City of all salary paid in connection with such un-accrued leave.

5.1.5 *Compensation for Unused Sick Leave*

Upon termination of employment by resignation, retirement or death, a regular employee who leaves the City service in good standing shall receive compensation for all accumulated unused sick leave based upon the following formula: a rate of three percent (3%) for each year of service (i.e., 3% times number of employment service years). The maximum number of accumulated, unused sick leave an employee may be compensated for upon termination of employment is 600 hours. See Section 4.5.4 regarding Service Credit option for accumulated, unused sick leave that the employee is not compensated for upon termination.

5.2 VACATION LEAVE

5.2.1 *Eligibility*

Annual vacation with pay shall be granted each eligible employee. Vacation leave accrual shall be prorated for those employees working less than full time. Employees will be permitted to use accrued vacation leave after six (6) months of employment subject to the approval of the Department Director.

5.2.2 *Rate of Accrual*

Vacation benefits shall accrue during the probationary period. Each regular full-time employee (part time regular are prorated) shall accrue vacation at the following rate for continuous service. (Each service year in the chart begins on the first working day and ends on the last days of the service year.)

Service Year	Annual Hours	Hours/Month
1-3	75.000	6.2500
4	112.500	9.3700
5	117.867	9.8222
6	123.234	10.2695
7	128.601	10.7167
8	133.968	11.1640
9	139.335	11.6110
10	144.702	12.0580
11	150.000	12.5000

12	157.500	13.1250
13	165.000	13.7500
14	172.500	14.3750
15	180.000	15.0000
16+	187.500	15.6250

When an employee is on an approved leave without pay, vacation accrual is prorated based upon paid hours in the pay period.

5.2.3 Administration of Vacation Leave

The City Manager, upon the recommendation of the Department Director, may advance vacation credits to any permanent regular and permanent part-time employee.

No employee may accrue more than 250 hours. Vacation accruals will resume once the employee's accumulated vacation balance falls below the allowable cap limit.

The time at which an employee may use his/her accrued vacation leave and the amount to be taken at any one time, shall be determined by employee's Department Director with particular regard for the needs of the City but also, insofar as possible, considering the wishes of the employee.

The maximum amount of vacation leave that may be taken at any given time shall be that amount that has accrued to the employee concerned, subject to the Department Director's approval. The minimum amount of vacation that may be taken at any given time shall be one-half (1/2) hour. Vacation leave granted by the City and used by an employee shall be deducted from the employee's vacation leave bank.

In the event that one or more City holidays falls within an annual vacation leave, only those hours that the employee is regularly scheduled to work shall be charged against any employee's accrued vacation.

Upon termination, an employee shall be compensated in cash at his/her current rate of pay for any vacation accrued but not taken, up to the maximum accrual cap, provided that the employee has successfully completed his/her initial probationary period.

5.2.4 Vacation Cash-In

An employee who has taken at least ten (10) days of vacation in the preceding twelve (12) months may request, in any fiscal year that accrued vacation, not to exceed seven (7) days, be converted to cash payments and the request may be granted at the discretion of the City Manager. Employees cannot cash in more than seven (7) days of vacation in any one twelve (12) month period.

5.3 HOLIDAYS

5.3.1 Paid Holidays

All employees who are required to work on a day designated as an authorized holiday, other than a day on which an election is held throughout the state, shall be paid at the applicable rate of pay for the number of hours actually worked.

When a holiday falls on Saturday or Sunday, the Friday preceding a Saturday holiday or the Monday following a Sunday holiday shall be deemed to be a holiday in lieu of the day observed.

The following holidays will be observed:

January 1 st	New Year's Day
The third Monday in January	Martin Luther King Jr. Day

The third Monday in February	Washington's Birthday
March 31 st	Cesar Chavez Day
The last Monday in May	Memorial Day
July 4 th	Independence Day
The first Monday in September	Labor Day
November 11 th	Veteran's Day
The fourth Thursday in November	Thanksgiving Day
The fourth Friday in November	Day after Thanksgiving
December 25 th	Christmas Day

In addition to designated holidays, employees in this Unit receive two (2) floating holidays. Floating holidays not used are added to employee's vacation balance. Part-time employees will be paid for holidays on a pro-rated basis.

5.4 OTHER LEAVES

5.4.1 Bereavement Leave

In the event of the death of an employee's spouse, registered domestic partner, child, parent, ~~brother, sistersibling~~, in-laws, relative who lives or has lived in the home of the employee to such an extent that the relative was considered a member of the immediate family and/or another individual who has a legal familial relationship to the employee and resided in the employee's household, up to ~~three (3) days within the State and up to five (5) days out-of-state~~ may be granted for bereavement leave.

In those cases where the death involves an individual who had such a relationship with the employee, as defined above, the employee shall sign a simple affidavit describing the relationship and submit this to the Department Director as part of the request for bereavement leave.

5.4.2 Jury Duty

Employees required to report to jury duty shall be granted a leave of absence with pay from their assigned duties until released by the court, provided that the employee provides advance notice to the Appointing Authority and remits to the City all per diem service fees except mileage or subsistence allowance within thirty days from the termination of such duty.

5.4.3 Military Leave

Military leave shall be granted in accordance with the State of California Military and Veteran's Code as amended from time to time. All employees entitled to military leave shall give the appointing authority and the Department Director an opportunity, within the limits of military regulations, to determine when such leave shall be taken.

5.4.4 Leave of Absence Without Pay

Leave of absence without pay may be granted by the City Manager upon the written request of the employee. Accrued vacation leave must be exhausted prior to the granting of leave without pay.

5.4.5 Industrial Injury Leave

For benefits under Workers' Compensation, an employee should report any on the job injury to his/her supervisor as soon as possible, preferably within twenty-four (24) hours. The Human Resources' Department coordinates benefits for Workers' Compensation claims. For further

information, see the City's Workers' Compensation policy located on the Intranet (<https://intranet.cityofsanrafael.org>).

All regular, full time employees of the City who have suffered any disability arising out of and in the course of their employment as defined by the Workers' Compensation Insurance and Safety Act of the State of California, may be entitled to compensation, as follows:

Temporary disability payments (TD) are made when a physician reports an employee is unable to perform their job duties and the City cannot accommodate any restrictions. The employee is not entitled to TD for the first 3 days of disability unless the employee is hospitalized as an in-patient, or off for more than 14 days. In this case, the employee shall be entitled to remain absent from duty with pay for these first 3 days. TD is set by State law and is based on potential wages lost (full or partial) due to the injury. It is approximately two-thirds of full salary with state-mandated minimums and maximums. The City, however, augments regular employees' disability payments to bring them to full salary for the first three (3) calendar months and to $\frac{3}{4}$ pay for the next 6 months. Compensation leave payments shall not exceed the employee's regular full pay for the first three (3) calendar months and three-fourths (3/4) of the regular full pay for the following six (6) calendar months.

All other employees shall be entitled to such compensation as may be allowed them by the Workers' Compensation Insurance and Safety Act of the State of California.

Sick Leave Usage Post Industrial Injury/Illness

The following rule applies to employees who have an accepted industrial injury/illness: Available accrued sick leave cannot be used for more than 60 calendar days after one of the following has been determined:

- The employee has reached maximum medical improvement and/or has been determined "permanent and stationary."
- The employee has been determined to be unable to return to their usual and customary occupation, with or without reasonable accommodation.

Given the above has occurred, next steps would include:

- The interactive process; attempt to locate other appropriate employment within the City
- If none available, proceed with termination process, including disability retirement application and/or Skelly process, if appropriate.

5.4.6 Family Medical Leave

Union members agree to adhere to the provisions of the City's Family Medical Leave Policy which is available on the City's Intranet Website.

5.4.7 Catastrophic Leave

Catastrophic leave shall be in accordance with City Catastrophic Leave Policy which is available on the City's Intranet website.

6 TERMS & CONDITIONS OF EMPLOYMENT

6.1 HOURS OF WORK

The WORK WEEK will reflect thirty-seven and one-half (37.5) hours for all represented job classes. Unless otherwise designated, the normal business hours for vacation, sick and administrative leave deduction and sick and administrative leave accrual purposes shall be 7.5 hours per day.

6.2 OVERTIME

Overtime shall mean actual time authorized and worked beyond thirty-seven and one-half (37.5) hours in a regular work week. A work or duty week shall be defined as seven (7) consecutive calendar days. Overtime is compensable to the nearest half-hour, and must have prior authorization and approval of the Department Director.

Each Department Director shall have the authority to designate certain job classifications for mandatory overtime in emergencies. In the event the Department Director determines that there is a staffing need during an emergency, the Department Director shall first make a reasonable effort to seek qualified volunteers to work overtime during the emergency. If the Department Director determines that there are an insufficient number of volunteers, or if time constraints prevent the soliciting of volunteers, the Department Director may order employees in the designated classifications (may vary depending on the emergency but primarily relates to job classifications in the Street Division of Public Works) to report to work in overtime status to address the emergency.

6.3 COMPENSATORY TIME POLICY

With the Department Director's approval, compensatory time, in lieu of overtime pay, may be taken subject to the following rules:

6.3.1 Accrual Limit

Employees may accrue up to 125 hours of compensatory time after which said employee must accept overtime pay in lieu of accruing additional compensatory time.

6.3.2 Overtime Rate

Employees who work overtime may be paid for it at the rate of time and one-half or may accrue compensatory time at a rate of time and one-half, subject to the limitations in Section 6.3.1. Employees who elect compensatory time must take the time off, preferably within the quarter during which it was earned, and shall not be paid for it.

6.4 STAND BY OR CALL BACK DUTY

6.4.1 Compensation When Not Assigned to Call Back Duty

When an employee not assigned to standby duty is called back to duty, the employee shall receive compensation for a minimum of four (4) hours.

6.5 PROBATIONARY PERIOD

6.5.1 Purpose of Probation

After passing an examination and accepting appointment, each employee shall serve a period of probation beginning on the date of appointment. Such period shall be for the purpose of determining the employee's ability to perform satisfactorily the duties prescribed for the position.

6.5.2 Probationary Period

The probationary period on original and promotional appointment shall be for one (1) year. Employees shall receive verbal feedback from their immediate supervisor throughout the probationary period.

6.5.3 Rejection During Probation

During the probationary period, an employee may be rejected at any time by the Appointing Authority without the right of appeal.

6.5.4 Notification of Rejection

On determining that a probationary employee's work is not satisfactory, the Appointing Authority shall notify the Human Resources Director of his/her intention to terminate the employee. After discussion with the Human Resources Director, the Appointing Authority shall notify employee in writing of his/her rejection.

6.5.5 Extension of Probationary Period

The probationary period shall not be extended except in the case of extended illness or injury or compelling personal situation during which time the employee was unable to work. In such cases, the probationary period may be extended for the length of time the ill or injured employee was unable to work.

6.5.6 Regular Status

Regular status shall commence with the day following the expiration date of the probationary period.

6.5.7 Promotion of Probationary Employee

An employee serving a probationary period may be promoted to a position in a higher position classification provided he/she is certified from the appropriate Eligible List. The employee promoted in this manner shall serve a new probationary period for the position to which employee is promoted and the new probationary period and promotional appointment shall be effective the same date.

6.5.8 Unsuccessful Passage of Promotional Probation

An employee who does not successfully pass his/her promotional probationary period shall be reinstated to the position in which the employee held regular status prior to his/her promotion. Provided, however, that if the cause for not passing the promotional probationary period was sufficient grounds for dismissal, the employee shall be subject to dismissal without reinstatement to the lower position.

6.5.9 Lateral Transfer Probation

Voluntary transfers to another job classification, within the same salary range, shall require a six (6) month probationary period. In the event of unsuccessful passage of this period refer to Section 6.5.8.

6.6 TRANSFERS / REASSIGNMENTS

Transfers may be within the same department (intra-departmental) or between departments (inter-departmental). The requirements for each are as follows:

a. Intra-departmental transfers.

The Appointing Authority shall have the authority to transfer an employee from a position in one division of a department to a position in the same or similar classification with the same salary range, in the same division or to another division of the same department (at any time and for any duration).

b. Inter-departmental transfers.

An employee may transfer from a position in one (1) department to a position in the same or similar classification in another department, provided the consent of the two Appointing Authorities and the City Manager is obtained.

c. Voluntary Transfers.

An employee may make a written request for transfer to the Human Resources Director to a position in the same or similar classification with the same salary range. Such a transfer may be made on the recommendation of the affected Department Director(s) and the approval of the City Manager.

6.6.1 Minimum Qualifications & Probation

Any persons transferred to a different position shall possess the minimum qualifications for the position.

6.6.2 Transfer Procedures

The City Manager may authorize the transfer of an employee from one position to another of the same or comparable class of work and where the same general type of examination is given for entrance to such a position.

Transfers from one department to another department having a different jurisdiction or different function shall be done only with the consent of the Department Directors, involved, unless such a transfer is ordered by the City Manager for purpose of economy or efficiency.

Employees who have completed their initial probation may seek voluntary transfers to positions within the same job class, and/or lower level job classes as long as the employee meets the minimum qualifications for the position. Employees seeking transfer should submit a completed application to the Human Resources Department. As vacancies occur, transfer candidates may receive consideration along with those on the eligibility list.

6.7 PERSONNEL RULES & REGULATIONS

The WCE agrees to adhere to the City's Personnel Rules and Regulations located on the City's Intranet website.

6.7.1 Drug & Alcohol Policy

The City and the WCE agree to the non-DOT general drug and alcohol policy. A copy is available with the City's policies and on the City's Intranet website.

6.7.2 Confidential Nature of Personnel Records

All personnel records and files and examination materials are confidential. The Human Resources Director shall take all necessary steps to protect the confidentiality of those materials. Disclosure of such records shall be governed by the Public Records Act, Government Code Sections 6250, et. seq. Individual employees may review their official personnel file maintained by the Human Resources Department and/or respective appointing authority. With the written consent of the employee, the authorized representative of the recognized employee organization may also review that personnel file.

6.7.3 Confidential Nature of Medical Records

All medical records and files are the property of the City of San Rafael. These confidential records and files are to be maintained in a file separate from the employee's personnel file in the Human Resources Department. Disclosure of such records shall be governed by the Public Records Act, Government Code, Section 6250, et. seq.

6.7.4 Outside Employment Policy

Outside Employment shall be in accordance with the City's Outside Employment Policy which is available on the City's Intranet website.

6.7.5 Use of City Vehicle

Public Works Supervisors, at the direction of the Department Director, will be allowed to take a City vehicle home in emergency conditions.

6.7.6 Safety Policy

The City of San Rafael is committed to providing a safe and healthy place to work. The City shall furnish safety devices and safeguards, and shall adopt and use methods and processes adequate to ensure that the work place is safe and healthy. Employees are expected to obey safety rules and make proper use of safety gear and equipment. The City's safety policies and procedures shall comply with all applicable state laws related to a safe work environment.

6.8 MISCELLANEOUS

6.8.1 Gratuities/Solicitation of Contributions

Gratuities and/or solicitation of contributions are not allowed. Employees should refer to the City's Personnel Rules and Regulations.

6.8.2 Return of City Equipment

Upon termination of employment, all tools, equipment, and other City property assigned to an employee shall be returned to the employee's supervisor before leaving City employment.

6.8.3 Political Activity

The political activity of City employees shall comply with pertinent provisions of State and Federal Law.

6.8.4 Employment of Relatives

Employment of relatives shall be governed by the City's Personnel Rules and Regulations.

6.8.5 Labor / Management Meetings

During the term of the Agreement, the City and the WCE agree that consultation meetings may contribute to improved employer-employee relations. Issues relating to the usage of volunteers and temporary/part-time/seasonal employees, promotional opportunities, and the implementation of safety programs will serve as a basis for initial agenda items to be discussed and acted upon.

The committee shall be comprised of two (2) representatives from the Western Council of Engineers and representatives from City Management as well as the WCE Executive Director and the Human Resources Director. The parties agree that committee members may change depending on the subject matter.

Meetings may be requested by either party. The party requesting the meeting shall submit a proposed agenda and the receiving party shall acknowledge and confirm the date, time and location of the requested meeting. It is intended that the subject matter will not include issues subject to Article 7.4 Grievance Procedures.

6.8.6 Contract Orientation Work Sessions

The City and the WCE agree that the individuals having responsibility for the enforcement of the Agreement, WCE Stewards and Department Directors/Supervisors shall participate in an

Annual Contract Orientation Work Session for the purpose of obtaining a better understanding of the provisions of the contract. These work sessions shall be held on City time and facilities.

6.8.7 Gym Reimbursement

Employees are eligible to receive up to \$16.50 per month reimbursement for paid gym membership, personal recreation league fees or fitness-related recreation facility fees. Such reimbursement shall be processed annually and reported as taxable income to the employee.

7 PROCEDURES

7.1 DEMOTION & SUSPENSION

7.1.1 Demotion

The Appointing Authority may demote an employee when the following occurs:

- a. The employee FAILS to perform his/her required duties.
- b. An employee requests such a demotion. No employee shall be demoted to a classification for which he/she does not possess the minimum qualifications. When the action is initiated by the Appointing Authority, written notice of demotion shall be provided to an employee at least ten (10) working days before the effective date of the demotion, and a copy shall be filed with the Human Resources Department.

Withholding a salary step increase or withdrawing a merit step increase within or above the salary range of the employee's position shall not be deemed a demotion.

Disciplinary demotion action shall be in accordance with Article 7.3, "Disciplinary Action."

7.1.2 Suspension

The Appointing Authority may suspend an employee from a position at any time for a disciplinary purpose. Intended suspension action shall be reported immediately to the Human Resources Director, and shall be taken in accordance with Article 7.3, "Disciplinary Action".

7.2 TERMINATION OF EMPLOYMENT

7.2.1 Resignation

An employee wishing to leave the City service in good standing shall file with his/her immediate supervisor, at least fourteen (14) days before leaving the service, a written resignation stating the effective date and reason for leaving. A copy of the resignation shall be forwarded to the Appointing Authority and Human Resources Department.

7.2.2 Termination - Layoff (Lack of work or funds)

The City will not layoff any employees in the bargaining unit between July 1, 2011 and December 31, 2011, unless the City is subject to significant revenue reduction (a reduction of one percent (1%) or more in General Fund revenue) due to state cuts or reduction in other revenue sources.

The Appointing Authority may terminate an employee because of changes in duties or organization, abolishment of position, shortage of work or funds, or completion of work for which employment was made.

7.2.3 Termination - Disciplinary Action

An employee may be terminated at any time for disciplinary action, as provided in Article 7.3, "Disciplinary Action".

7.2.4 Retirement

Retirement from the City services shall, except as otherwise provided, be subject to the terms and conditions of the City's contract as amended from time to time, with the Marin County Retirement System.

7.2.5 Rejection During Probation

An employee may be terminated from their position during the probationary period of their initial appointment to the City's classified service without Right of Appeal.

7.3 DISCIPLINARY ACTION

7.3.1 Right to Discipline & Discharge

Upon completion of the designated probationary period, an employee shall be designated as a non-probationary employee and the City shall have the right to discharge or discipline any such employee for dishonesty, insubordination, drunkenness, incompetence, negligence, failure to perform work as required or to observe the Department's safety rules and regulations or for engaging during the term of this Memorandum of Understanding in strikes, individual or group slowdowns or work stoppages, or for violating or ordering the violation of the Memorandum of Understanding. The City shall use progressive disciplinary steps (i.e., reprimand, suspension, demotion, discharge) unless the violation is such as to justify termination. Disciplinary action shall mean discharge/dismissal, demotion, reduction in salary, and suspension resulting in loss of pay.

In addition, the City may discipline or discharge an employee for the following: Fraud in securing appointment; negligence of duty; violation of safety rules; unacceptable attendance record including tardiness, overstaying lunch or break periods; possession, distribution or under the influence of alcoholic beverages, non-prescription or unauthorized narcotics or dangerous drugs during working hours; inability, unwillingness, refusal or failure to perform work as assigned, required or directed; unauthorized soliciting on City property or time; conviction of a felony or conviction of a misdemeanor involving moral turpitude; unacceptable behavior toward (mistreatment of discourteousness to) the general public or fellow employees or officers of the City; falsifying employment application materials, time reports, records, or payroll documents or other City records; misuse of City property; violation of any of the provisions of these working rules and regulations or departmental rules and regulations; disorderly conduct, participation in fights, horseplay or brawls; dishonesty or theft; establishment of a pattern of violations of any City policy or rules and regulations over an extended period of time in which a specific incident in and of itself would not warrant disciplinary action, however, the cumulative effect would warrant such action; failure to perform to an acceptable level of work quality and quantity; insubordination; other acts inimical to the public service; inability or refusal to provide medical statement on cause of illness or disability.

7.3.2 Preliminary Notice

A non-probationary employee shall receive a preliminary written notice from the employee's Supervisor of any proposed disciplinary action that involves the loss of pay. The notice must contain a specific statement of charges or grounds upon which the proposed disciplinary action is based and the date the disciplinary action will be effective.

Any known written materials, reports or documents upon which the disciplinary action is based must be attached to the notice.

Upon the receipt of the notice, the employee shall have five (5) days to appeal the matter in writing to Step 2 of the Grievance Procedure. If a written appeal is filed, no disciplinary action shall be imposed until the Department Director has conducted a hearing with the employee and

employee's representative present and having heard the response of the employee. If no written appeal is filed within five (5) days, the employee shall be deemed to have waived his right to proceed to Step 4 of the Grievance Procedure.

7.3.3 Disciplinary Action and Appeal

After hearing the response of the employee, the Department Director may order that the proposed disciplinary action or modification thereof be imposed. Thereafter, the employee shall have ten (10) days to appeal this matter to the City Manager. The City Manager shall investigate the matter, conduct an informal hearing if the City Manager deems it appropriate and, within ten (10) days thereafter, respond to the allegations in writing. For pre-termination disciplinary action of suspension and reduction in pay, the decision of the City Manager shall be final and binding.

For disciplinary demotions and discharges only, if this matter remains unresolved, the WCE may, by written notice to the Human Resources Director within ten (10) days after the receipt of the City Manager's response, inform the City that the WCE wishes to appeal the decision to demotion or discharge to final and binding arbitration. The parties shall attempt to agree upon an arbitrator. If no agreement is reached, they shall request a list from the State Mediation and Conciliation Service containing nine (9) names. The selection process will include a review of the arbitrator's availability for the hearing. Each party shall then alternately strike a name until only one (1) name remains, said person to be the arbitrator. The order of striking shall be determined by the flip of a coin. As used herein, the word "days" shall be deemed to mean City established working days for non-safety employees.

7.3.4 Harassment Policy

It is the City's intent and purpose to provide all officials, employees, applicants, and contractors with an environment that is free from any form of harassment, discrimination or retaliation. Employees shall refer to the City Policy against Harassment, Discrimination and Retaliation which is available on the City's Intranet website.

7.4 GRIEVANCE PROCEDURE

7.4.1 Definition

- 1) **Grievance** is a dispute, which involves the interpretation or application of any provision of this Memorandum of Understanding. All ordinances, resolutions, rules and regulations, which are not specifically covered by the provisions of this Memorandum shall not be subject to the Grievance Procedure.
- 2) **Day** shall mean any that the City Office is open for business, excluding Saturdays, Sundays and the holidays recognized by the City.
- 3) **Grievant** may be an individual employee or a group of employees or the Union on the behalf of a group of employees or the Union on its own behalf on matters involving the City and Union relationship.
- 4) **Time limits** begin with the day following the event causing the grievance or the day following receipt of a grievance decision.

7.4.2 Procedure

Step 1.

Within seven (7) days of when the grievant knew or should have known of the act or omission causing the grievance the grievant shall present either in writing or verbally a clear and concise statement of the grievance to the immediate supervisor.

Within five (5) days thereafter the immediate supervisor shall investigate and respond to the allegations of the grievant.

Step 2.

If the grievant is not satisfied with the resolution at Step 1 the grievant must reduce the grievance to writing and present it to the Department Director within five (5) days.

The written grievance shall contain a statement of facts about the nature of the grievance, and shall identify the specific provisions of this Memorandum of Understanding alleged to be violated, applicable times, places and names of those involved, the remedy or relief requested, and shall be signed by the grievant.

The Department Director shall confer with the grievant and within ten (10) days respond to the allegations in writing.

Step 3.

If the grievant is not satisfied with the resolution at Step 2, the grievant shall within five (5) days appeal the matter to the City Manager.

The City Manager shall investigate the matter, conduct a hearing if the City Manager deems it appropriate and within ten (10) days, thereafter, respond to the allegations in writing.

Step 4.

If the grievance remains unresolved after Step 3, the Union may, by written notice to the City Human Resources Department within ten (10) days after the receipt of the response in Step 3, notify the City that the Union wishes to appeal the grievance to final and binding arbitration. The parties shall attempt to agree upon an arbitrator. If no agreement is reached, they shall request a list from the State Conciliation Service of nine (9) names. The selection process will include a review of the arbitrator's availability for the hearing.

Each party shall then alternately strike a name until only one (1) name remains, said person to be the arbitrator. The order of striking shall be determined by the flip of a coin.

7.4.3 Arbitration

The arbitrator shall be empowered to conduct a hearing and to hear and receive evidence presented by the parties. The hearing should be held within 60 calendar days of the selection of the arbitrator. The hearing shall be informal and need not be conducted according to technical rules of evidence. Repetitious evidence may be excluded and oral evidence shall be taken only under oath. The arbitrator shall determine what evidence is relevant and pertinent, as well as any procedural matters, and he/she may call, recall and examine witnesses, as he/she deems proper.

The burden of proof shall be upon the WCE in grievance matters and upon the City in disciplinary discharge matters.

After the conclusion of any hearing and the submission of any post hearing evidence or briefs agreed upon by the parties, the arbitrator shall render a written decision which shall be final and binding upon the City, the WCE and any employee(s) involved in the grievance or disciplinary demotion or discharge.

The arbitrator shall not be empowered to add to, subtract from, or in any way modify or alter any provision of this Memorandum of Understanding. The arbitrator shall only determine whether a grievance exists in the manner alleged by the grievant and what the proper remedy, if any, shall be, or, in the case of disciplinary discharge matters, whether the City allegations are accurate and the appropriateness of the disciplinary demotion or discharge.

The fees and expenses of the arbitrator shall be shared equally by the WCE and the City. All other expenses shall be borne by the party incurring them. The cost of the services of court reporter shall be borne by the requesting party unless there is a mutual agreement to share the cost or unless the arbitrator so requests; then the costs will be shared equally.

7.4.4 General Provisions

1. Employees who participate in the Grievance Procedure by filing a grievance or acting as a witness on the behalf of either party shall be free from discrimination by either the WCE or the City.
2. A grievant has the right to be represented at each stage of the procedure, to cross examine witnesses, and to have access to all information regarding the basis of the grievance upon which the City relies in making its determinations.
3. If a grievant, or the WCE on behalf of the grievant, fails to carry his/her grievance forward to the next level within the prescribed time period, the grievance shall be deemed withdrawn unless the parties have mutually agreed to an extension of timelines. If a supervisor or manager fails to respond with an answer within the given period of time, the grievant may appeal to the next higher level. The parties may by mutual agreement waive the steps in the procedure.
4. If a hearing is held during work hours of employee witnesses, such employees shall be released from duties, without loss of pay or benefits, to appear at the hearing. Witnesses requested by the parties shall be compelled to attend said hearings.
5. The Human Resources Department shall act as the central repository for all grievances.
6. Time limits contained herein may be extended by mutual agreement of the parties. Absence for bona fide reasons by a grievant, the WCE Executive Director or any management official involved in responding to the grievance shall automatically extend the time limits by the same number of days of absence.

7.5 POSITION RECLASSIFICATION

Reclassification of positions covered by this MOU shall be in accordance with the City's Reclassification Policy available on the City's Intranet website

7.6 FURLOUGH PROGRAM

Both the City of San Rafael and the WCE recognize the current economic condition of the State of California and the City of San Rafael. Through this recognition and in a cooperative spirit, the City of San Rafael and the WCE have worked expeditiously on the development of a Furlough Program. This Agreement does not mean the City will necessarily implement furloughs, however, in the event it is necessary to implement due to continued economic problems in the City of San Rafael, the procedures for this Furlough Program shall provide for both Voluntary Time Off (herein described as VTO) and Mandatory Time Off (herein described as MTO).

7.6.1 Voluntary Time Off (VTO)

The needs of the City and the respective departments (as determined by the Department Director and City Manager) will need to be considered in the actual granting of VTO. Any VTO time granted and the resulting savings will have a corresponding impact on the time needed through MTO.

1. An employee's VTO time would count in determining how many hours of MTO an employee needed to take during the fiscal year.

2. An employee selecting at least a 5% reduction of hours through the VTO would receive “float” days as described in Section 7.6.2. (4.a.).
3. Employees who take VTO at a time other than when MTO is taken by other employees will have to take vacation leave, compensatory time off or leave without pay if the MTO results in the closure of the department.
4. Employees will be allowed to exceed a 5% reduction of hours through the VTO with review of the Department Director and approval of the City Manager and such approval shall be revocable should the City determine that the impact of the absence can not be absorbed by the Department. Prior to revoking approval, the City will contact the employee and review pertinent information which would impact the employee’s ability to return to work. Should the City need to remove additional VTO, such removal would be considered a non-disciplinary action and would not be subject to any appeal/grievance procedure.

7.6.2 Mandatory Time Off (MTO)

MTO will be taken by the employee during the MTO period when feasible in their respective department (as determined by the Department Director and City Manager) and after consultation with WCE.

- a. Employees may not take paid vacation time in lieu of designated MTO time.
2. MTO time shall be considered time in pay status for the accrual of leave and eligibility for holidays. MTO time will not impact health, dental and life insurance benefits. At this time MTO time will not impact Marin County retirement calculations of average compensation or service credit as the City and employee will continue to fund the full amounts. If the Marin County Retirement Association changes its policy on this, the City will, effective the first of the month following notice from the Marin County Retirement Association, make the necessary change in the program's administration to correspond with the change in the policy.
3. MTO time shall apply toward time in service for step increases and completion of probation.
4. Other Terms and Conditions:
 - a) The MTO program shall be limited to a maximum five percent (5%) reduction in work hours/pay for the fiscal year. When the maximum MTO reduction (5%) is implemented, the involved employee shall be credited with three (3) days of float time.
 - b) Float time accrued through the MTO Program must be taken in the next fiscal year following the furlough, with supervisory approval, or the leave will be forfeited. The float days have no cash value upon termination of employment. If an employee is laid off before having the opportunity to take unused furlough induced float time, said employee would be eligible to take the unused furlough induced float time during the thirty-day layoff notice period.
 - c) Should the City of San Rafael experience a financial windfall during the fiscal year that furloughs are implemented, the City and WCE agree to re-open negotiations on this Furlough Plan.

7.7 REDUCTION IN FORCE

7.7.1 Authority

The Appointing Authority may lay off, without prejudice, any regular employee because of lack of work or funds, or organizational alterations, or for reasons of economy or organizational efficiency.

7.7.2 Notice

Regular employees designated for layoff or demotion shall be notified in writing at least thirty (30) calendar days prior to the anticipated date of termination or demotion. The employee organization shall also be notified.

7.7.3 Order of Layoff

Layoffs and/or reductions in force shall be made by classification. A classification is defined as a position or number of positions having the same title, job description and salary. For WCE represented engineering positions, the classifications will be Engineering Technician I/II, Traffic Engineering Technician I/II, Assistant Engineer, Associate Engineer, Senior Associate Engineer, Land Development Engineer, Civil Engineer, Traffic Engineer separately. Each classification stands alone for purpose of layoffs. Any layoff will be based on seniority within the classification and will be implemented in the following order: extra hire employees, probationary employees and regular employees. In effecting the preceding order, a part-time regular employee with more seniority can displace a full-time regular employee.

7.7.4 Seniority

Probationary employees will always be laid off before employees who have regular status in a classification. If two or more employees within a classification have achieved regular status, such employees will be laid off or reduced on the following basis:

- a. Seniority within the classification will be determinative. Any layoffs in these classes will be based on overall seniority in the classification, not on the basis of any working title or currently assigned duties.
- b. If the seniority of two or more employees in the affected classification or higher classification(s) is equal, departmental seniority shall be determinative.
- c. If all of the above factors are equal, the date regular status in City service is achieved shall be determinative.
- d. If all of the above are equal, date of certification for appointment shall be determinative.

7.7.5 Bumping Rights

An employee designated to be laid off may bump into a class at the same salary level, for which he or she qualifies or into the next lower classification in which such employee has previously held regular status. An employee who is bumped shall be laid off in the same manner as an employee whose position is abolished.

7.7.6 Transfer Rights

The Human Resources Director will make every effort to transfer an employee who is to be affected by a reduction in force to another vacant position for which such employee may qualify. The length of eligibility for such transfer will be the period of notification as provided in Section 7.7.2, but no longer than the effective date of such layoff or reduction.

7.8 RE-EMPLOYMENT

7.8.1 General Guidelines

Individuals who have been laid off or demoted shall be offered re-appointment to the same classification in which they held status in the order of seniority in the classification. Individuals

demoted in lieu of reduction in force shall be offered restoration to the highest class in which they held status and in which there is a vacancy prior to the appointment of individuals who have been laid off.

7.8.2 Right to Re-Employment

Each person who has been laid off or demoted in lieu of a layoff from a position the person held, shall, in writing, be offered re-appointment in the same classification should a vacancy occur in the classification within two years after the layoff or demotion. Prior to being re-employed, the employee must pass a physical exam administered by a City appointed physician and must pass the background check administered by the City.

7.8.3 Time Limits

Should the person not accept the re-appointment within seven (7) calendar days after the date of the offer, or should the person decline or be unable to begin work within two weeks after the date of acceptance of the offer, the person shall be considered unavailable for employment, shall forfeit the right to re-employment and be removed from the re-employment list.

7.8.4 Availability

Whenever a person is unavailable for re-employment, the next senior person who is eligible on the re-employment list shall be offered re-employment.

7.8.5 Probationary Status

Employees re-appointed under the provisions above will not be required to complete a new probationary period if they had previously held permanent status in the classification. Employees who had not completed their probationary period shall serve the remainder of the probationary period upon re-appointment.

7.8.6 Restoration of Benefits

Employees restored to previously held positions shall be deemed to have returned from a leave of absence for the purpose of all rights and benefits legally permissible. Time not on the payroll will not count as time worked for the purposes of seniority accrual.

7.8.7 Layoff Procedure Notification

Once the decision has been made to reduce the workforce per this MOU, the City will meet with the union to review and receive feedback on the procedure to be used to inform and process the lay-offs. The information gained in this meeting from the union by the City will be advisory and not binding.

WESTERN COUNCIL OF ENGINEERS

CITY OF SAN RAFAEL

Nancy Watson, Western Council of Engineers

**Tim Davis, Lead Negotiator
Attorney, Burke Williams Sorensen**

Shawn Graf, Junior Engineer

**Sylvia Gonzalez-Shelton
HR Operations Manager**

Willie Lagleva, Traffic Engineering Technician

Thomas Wong, Analyst

Date

Date

WCE - San Rafael
Salary Schedule
Effective July 1, 2021

Grade	Position	A	B	C	D	E
7333	Assistant Engineer	\$ 7,871	\$ 8,265	\$ 8,678	\$ 9,112	\$ 9,568
7229	Associate Civil Engineer	\$ 8,689	\$ 9,123	\$ 9,580	\$ 10,059	\$ 10,562
7277	Engineering Technician I	\$ 5,579	\$ 5,858	\$ 6,150	\$ 6,458	\$ 6,781
7230	Engineering Technician II	\$ 6,304	\$ 6,619	\$ 6,950	\$ 7,298	\$ 7,663
7330	Junior Engineer	\$ 6,319	\$ 6,635	\$ 6,967	\$ 7,316	\$ 7,681
2311	Senior Civil Engineer (PW)	\$ 10,062	\$ 10,565	\$ 11,093	\$ 11,648	\$ 12,230
7331	Traffic Engineer	\$ 8,689	\$ 9,123	\$ 9,580	\$ 10,059	\$ 10,562
4793	Traffic Engineering Technician I	\$ 5,579	\$ 5,858	\$ 6,150	\$ 6,458	\$ 6,781
4792	Traffic Engineering Technician II	\$ 6,304	\$ 6,619	\$ 6,950	\$ 7,298	\$ 7,663

WCE - San Rafael
Salary Schedule
Effective July 1, 2022

Grade	Position	A	B	C	D	E
7333	Assistant Engineer	\$ 8,167	\$ 8,575	\$ 9,004	\$ 9,454	\$ 9,927
7229	Associate Civil Engineer	\$ 9,015	\$ 9,466	\$ 9,939	\$ 10,436	\$ 10,958
7277	Engineering Technician I	\$ 5,788	\$ 6,077	\$ 6,381	\$ 6,700	\$ 7,035
7230	Engineering Technician II	\$ 6,540	\$ 6,867	\$ 7,211	\$ 7,571	\$ 7,950
7330	Junior Engineer	\$ 6,572	\$ 6,901	\$ 7,246	\$ 7,608	\$ 7,989
2311	Senior Civil Engineer (PW)	\$ 10,439	\$ 10,961	\$ 11,509	\$ 12,085	\$ 12,689
7331	Traffic Engineer	\$ 9,015	\$ 9,466	\$ 9,939	\$ 10,436	\$ 10,958
4793	Traffic Engineering Technician I	\$ 5,788	\$ 6,077	\$ 6,381	\$ 6,700	\$ 7,035
4792	Traffic Engineering Technician II	\$ 6,540	\$ 6,867	\$ 7,211	\$ 7,571	\$ 7,950

WCE - San Rafael
Salary Schedule
Effective July 1, 2023

Grade	Position	A	B	C	D	E
7333	Assistant Engineer	\$ 8,412	\$ 8,832	\$ 9,274	\$ 9,737	\$ 10,224
7229	Associate Civil Engineer	\$ 9,285	\$ 9,750	\$ 10,237	\$ 10,749	\$ 11,286
7277	Engineering Technician I	\$ 5,961	\$ 6,260	\$ 6,572	\$ 6,901	\$ 7,246
7230	Engineering Technician II	\$ 6,737	\$ 7,074	\$ 7,427	\$ 7,799	\$ 8,188
7330	Junior Engineer	\$ 6,786	\$ 7,125	\$ 7,481	\$ 7,855	\$ 8,248
2311	Senior Civil Engineer (PW)	\$ 10,753	\$ 11,290	\$ 11,855	\$ 12,447	\$ 13,070
7331	Traffic Engineer	\$ 9,285	\$ 9,750	\$ 10,237	\$ 10,749	\$ 11,286
4793	Traffic Engineering Technician I	\$ 5,961	\$ 6,260	\$ 6,572	\$ 6,901	\$ 7,246
4792	Traffic Engineering Technician II	\$ 6,737	\$ 7,074	\$ 7,427	\$ 7,799	\$ 8,188

**City of San Rafael
Engineering Unit Employees as represented by WCE
Classification/Compensation Summary**

Current Benchmark	Title	% Difference from Benchmark
	Senior Civil Engineer (PW)	59.62%
	Associate Civil Engineer	37.83%
	Traffic Engineer	37.83%
	Senior Associate Engineer	31.18%
	Assistant Civil Engineer	24.86%
Junior Engineer	Engineering Technician II	0
	Traffic Technician II	0
	Engineering Technician I	-11.51%
	Traffic Technician I	-11.51%

**Draft “Template” Side Letter
Between
Western Council of Engineers (WCE)
and
The City of San Rafael**

[Insert Date]

In response to the global COVID-19 pandemic that began in the spring of 2020, the City of San Rafael declared a local state of emergency. Additionally, and in accordance with Governor Gavin Newsom’s Executive Order(s), which severely curtailed and/or outright closed commercial establishments, the City temporarily closed its offices for an undetermined amount of time and established remote work options for its non-public safety workforce in order to continue serving the needs of the community. The City utilizes the services of HDL to provide sales tax forecasts and tax revenue projections. HDL advised the City in the Spring of 2020, that it should be prepared for unprecedented financial losses, in an amount upwards of \$12M over the next 18 months. In anticipation of these dire financial circumstances, the City exercised its management rights under MOU section 7.6 and implemented a Citywide furlough for all non-safety positions. Based on the best financial projections available at the time, it was necessary and prudent to implement the furlough in order to avoid the need to implement reductions in force in the future.

Two significant things changed during fiscal year 20-21:

1. In the fall of 2020, the Measure R passed, which is expected to increase the City’s annual sales tax revenues by approximately \$4M, which the City will begin receiving at the end of FY 20-21, and
2. In the first quarter of 2021, HDL’s sales tax revenue forecasts significantly changed for the better and the revenue losses initially expected due to the pandemic, luckily did not materialize.

Based on the two above changes in financial condition, the City is projecting a financial surplus for fiscal year 20-21, therefore the City is willing to issue repayments to employees who were furloughed over the last year. The City is pleased that it is in the financial position to do so.

The circumstances that make it possible for the City to reimburse employees for the furlough at this time are extremely unique in nature. The City retains the management right under MOU section 7.6 in the future to implement a furlough if needed. The City does not commit to any future reimbursement of the furlough monies and considers this one-time offer to reimburse the FY 20-21 as non-precedential. Thus, the City now grants to each employee in the bargaining group a one-time re-payment equal to the amount they would have received had the furlough not occurred. In exchange for receiving these funds, employees will not be entitled to 3 days of float under MOU section 7.6.2 subsection 4.

The furlough repayment amount for each employee will be calculated based on their individual actual furlough reduction amounts that were deducted from each employee’s paycheck during FY 20-21. The furlough repayment amounts range from approximately \$700 - \$4,000, depending upon the individual position. The City already made MCERA pension contributions on each employee’s regular (non-furloughed) payroll amount each pay period during FY 20-21, therefore the City will

not make any additional contributions to Classic or PEPRAs employees' pensions and it is subject to normal payroll taxation. The actual total dollar amount to be reimbursed to the members of this bargaining unit is [insert total amount].

FOR WCE:

FOR THE CITY OF SAN RAFAEL:

Nancy Watson, Chief Negotiator
Western Council of Engineers (WCE)

Cristine Alilovich, Chief Negotiator
Assistant City Manager

Willie Lagleva
Traffic Engineering Technician II

Sylvia Gonzalez-Shelton
HR Operations Manager

Shawn Graf
Junior Engineer